

**29<sup>TH</sup> UPR WORKING GROUP SESSIONS  
SOGIESC RECOMMENDATIONS  
(15 JANUARY – 26 JANUARY 2018)**

*This report contains a summary and the SOGIESC recommendations of the 29<sup>th</sup> UPR Working Group Sessions.*

*The structure of the report includes SOGIESC remarks made by the State under Review, advanced questions from Member States and recommendations of Cycle II and III.*

*The report is based on the draft report submitted by the Working Group and notes taken by ILGA during the Working Group Sessions.*

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**BAHAMAS  
UPR SOGIESC RECOMMENDATIONS**

**DATE AND TIME OF THE REVIEW: 17 JANUARY 2018, 14:30—18:00**

**DATE AND TIME OF THE ADOPTION OF THE REPORT: 19 JANUARY 2018, 15:00—18:00**

*During the 29<sup>th</sup> UPR Working Group Sessions, Bahamas received 7 SOGIESC recommendations. It noted all 7 recommendations.*

**A. SOGIESC Information**

**National Report**

N/A

**Compilation of UN Information**

N/A

**Summary of Stakeholder's Information**

N/A

**B. SOGIESC Advanced Questions for Bahamas**

- **United Kingdom:** What steps are the Government of the Bahamas taking to strengthen women's rights and gender equality in citizenship matters in its constitution, to prevent discrimination on the grounds of sexual orientation and gender identity?

**C. Bahamas' Working Group Session**

- **Opening Remarks:** Mr. President, The Bahamas has received a number of recommendations concerning discrimination on the grounds of sexual orientation and gender identity.

In the Preamble of the Constitution of The Bahamas reference is made to The Bahamas' respect for Christian values. In our Christian nation we believe that the "family" is the foundation of a strong Nation and by law, "Marriage in The Bahamas is the union of a man and a woman."

Mr. President, although sexual orientation and gender identity is not included as prohibited grounds of discrimination in the Constitution and there is no legislation which prohibits discrimination in specific areas (such as employment), the Government continues to assert that there have not been any instances recorded of any legal discrimination against persons based on sexual orientation or gender identity.

Mr. President, neither has there been any formal reports lodged of discrimination on the basis of sexual orientation to the Royal Bahamas Police Force, the Labour board, The Ministries of Education and Health and there are no cases before the judiciary.

Mr. President, leading up to the Constitutional Referendum in 2016 the transgender community held a press conference, without interference, expressing their views on the proposed amendments to the Constitution. The LGBTQI community within the Bahamas has a platform and members represent their groups on a number national and regional organizations.

It should be noted that The Bahamas is generally supportive of efforts to combat all forms of discrimination against persons and to promote tolerance. During the 71st session (2016) of The Human Rights Council, The Bahamas supported the resolution that adopts the annual report on the Human Rights Council, which included, through Human Rights Council resolution 32/2, the mandate for an independent expert on protection against violence and discrimination based on sexual orientation and gender identity.

Persons who are in the process of gender reassignment are currently provided with psychological assistance from the Ministry of Health. Consideration might be given to other forms of assistance, however, as this issue remains highly controversial in popular discourse, a cautious and modulated approach has been adopted.

Mr. President, persons who are in same sex relationships are able to avail themselves of the regular protection and remedies available under the law in respect of violence or assault or property rights. And, it should be noted that consensual relations in private between adults of the same sex has been lawful in The Bahamas since 1991.

- **Intervention Made by Bahamas After 42 Interventions:** The difficulty in a democracy is that it is a question of developing a social consensus and this is why we have developed a modulated approach, cautiously seeking to advance rights in areas where there are very strongly held negative points of view in the populous. We undertake to continue to use every means with civil society, with other partners, even in the religious community, to advance the cause of a more moderate public approach to issues that are deeply personal, such as identity, sexuality, etc.

#### **D. Recommendations for Cycle III (2018)**

##### **a) Remarks of States**

- **United Kingdom:** We urge action on promoting gender equality, including preventing discrimination on the grounds of sexual orientation and gender identity.

##### **b) The following recommendations have been examined by Bahamas and have been noted by Bahamas**

- **Australia:** Introduce laws to provide redress to people subject to discrimination based on their sexual orientation or gender identity (6.45).
- **Chile:** Increase efforts to combat discrimination based on gender and sexual orientation or gender identity (6.43).
- **France:** Fight discrimination against LGBTI individuals (6.44).
- **Israel:** Take steps to amend the definition of “discrimination” in order to include gender, sexual orientation, gender identity or expression as grounds within it (6.46).
- **Netherlands:** Include same-sex couples in the Domestic Violence Act and repeal all provisions that discriminate against persons on grounds of their sexual orientation (6.47).
- **Spain:** Eliminate any legal provision that justifies discrimination for any personal issue, including issues of sexual orientation or gender identity, as previously recommended (6.48).

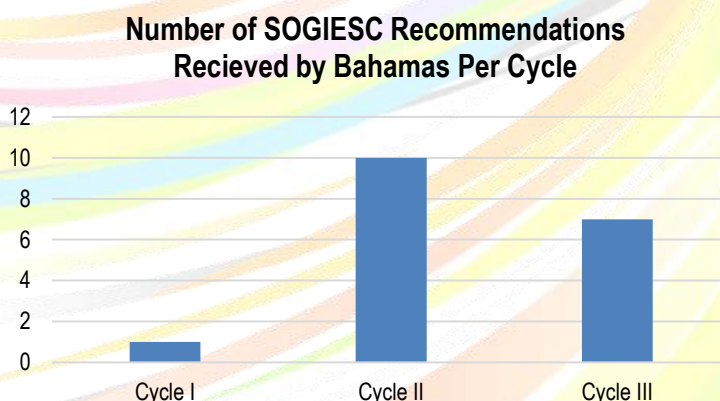
- **United States:** Pass comprehensive anti-discrimination legislation that would protect the human rights of all, including LGBTI persons and members of ethnic minority groups (6.122).

#### E. Recommendations for Cycle II (2013)

Recommending State	Recommendation	Response
Argentina	Consider the possibility of furthering the measures to eliminate all discriminatory treatment on the grounds of sexual orientation	Noted
Canada	Adopt measures to address the commission of any criminal acts or violence directed towards people based on their actual or perceived race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor	Noted
France	Repeal all provisions giving rise to discrimination on the grounds of sexual orientation or gender identity and ensure the respect of the fundamental freedoms of all citizens	Noted
Netherlands	Include same-sex couples in the Domestic Violence Act and make sure everyone is protected against domestic violence	Noted
New Zealand	Include sexual orientation as a prohibited ground of discrimination in its Constitution Reform process	Noted
Norway	Modify its legal framework in order to protect sexual minorities against discrimination	Noted
United Kingdom	Repeal all provisions that discriminate against persons on the grounds of their sexual orientation, including in the Domestic Violence Act (Protection Orders) and the Sexual Offences and Domestic Violence Act	Noted

United States	Adopt legislation that prohibits discrimination on the basis of sexual orientation and gender identity, and reinforce existing constitutional provisions that prohibit discrimination based on race and national origin	Noted
Uruguay	Establish and implement policies and initiatives to address discrimination on the grounds of sexual orientation or gender identity	Noted
Uruguay	Promote the necessary measures to repeal provisions discriminating people on the grounds of sexual orientation, including those contained in the Sexual Offences and Domestic Violence Act, and the Penal Code	Noted

#### F. Graphic Comparison Between Cycles (1—3)



#### G. [Video of Bahamas' UPR Working Group Session](#)

#### H. SOGIESC Mentions During Bahamas' UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **Bahamas (Opening Remarks):** On the matter of sexual orientation, since our review in January, the Attorney-General met with various alternative lifestyle groups that represents gays, lesbians, transgenders and men having sex with men to listen to their concerns and to remind them of their rights that are protected under the Constitution, and the relief available if they have been violated and the remedies available under the law in respect to violence or assault or property rights.

## BARBADOS UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 19 JANUARY 2018, 09:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 23 JANUARY 2018, 16:30—18:00

*During the 29<sup>th</sup> UPR Working Group Sessions, Barbados received 13 SOGIESC recommendations. It noted all 13 recommendations.*

### A. SOGIESC Information

#### National Report

13. The Bureau of Gender Affairs has continued to engage in awareness raising and training activities. For instance, the Bureau has collaborated with the Regional Police Training School to sensitise the Chief Training Officer on the elements and importance of the Committee for the Elimination of Discrimination against Women (CEDAW). The Chief Justice and Magistrates have been provided with a Protocol for dealing with Domestic Violence. In coordination with the Bureau, the Business and Professional Women's Club of Barbados has conducted seminars on Domestic Violence and Trafficking in Persons as well as two Training sessions for Police and Community Stakeholders working with the Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) community. The production of a play and film, entitled 'Simone's Place' is another Government-supported initiative that provides a perspective on the issue of same-sex and transsexual relationships.

51. As it relates to the recommendation for elaboration of programmes for human rights education, the Ministry of Education, Science, Technology and Innovation (METI) has been collaborating with the United Nations' Children's Fund (UNICEF). The teaching of Health and Family Life Education (HFLE) in primary and secondary schools has been mandatory since 2000. However, in order to be more responsive to the changes within society, there have been several revisions to the HFLE curricula. As such, the HFLE secondary curriculum now addresses the issue of gender identity and sexual orientation. The exposure of educators to training related to effective delivery of HFLE has also intensified. Several workshops were held for teachers and Guidance Counsellors in secondary schools.

#### Compilation of UN Information

12. The United Nations subregional team noted that the Government was in the process of drafting anti-discrimination legislation to cover the rights of many marginalized groups, including persons with disabilities, however, there was no indication that lesbian, gay, bisexual, transgender and intersex persons would be protected under such legislation.

14. The Committee on the Elimination of Discrimination against Women recommended that Barbados strengthen its understanding of the substantive equality of women and men and ensure equal rights and opportunities for women who faced intersecting forms of discrimination, in particular migrant women, women belonging to a religious minority group and lesbian, bisexual and transgender women.

37. The Committee on the Elimination of Discrimination against Women also recommended that Barbados improve access to information on sexual and reproductive health and rights for lesbian,

bisexual, transgender and intersex women and girls, and train medical personnel to respond to their specific health needs.

### Summary of Stakeholder's Information

4. JS3<sup>1</sup> reported that the recommendations concerning adoption of legislation and policies addressing and prohibiting discrimination on the basis of sexual orientation and gender identity, noted by Barbados, had not been implemented. It noted that there was no constitutional or legislative provision that protects against discrimination on the ground of sexual orientation in the areas of employment, healthcare, and education, leaving lesbian, gay, bisexual, transsexual and queer (LGBTQ+) persons who encounter discrimination without recourse for legal redress and protection. JS3 also reported that the provisions of the Sexual Offences Act criminalizing consensual homosexual relations were still maintained, despite the recommendations, noted by Barbados, to repeal them and that there was no specific LGBTQ+ hate crime or hate speech legislation. It recommended that the Government should engage in public education and sensitization campaigns about LGBTQ+ individuals to combat and transform attitudes of prejudice, discrimination and stigma against them.

5. JS3 also reported of the absence of a law or court procedure/court process under the Civil Procedure Rules to change one's gender marker (the indication of male or female on identification documents), although there is no law which expressly prohibits it.

8. JS3 reported that there was no specific legislative framework to protect the LGBTQ+ population from harassment and violence, while the police did not treat the reports of harassment and violence against the LGBTQ+ persons with the same due attention, seriousness and diligence as other matters. It recommended enacting LGBTQ+ specific hate crime legislation to allow for the prosecution of individuals committing violence against members of the LGBTQ+ community.

10. JS3 noted that individuals with non-traditional gender expressions faced discrimination in the job market and lacked protection in the workplace. It reported that neither public nor most public employers had policies to address discrimination on any basis, including sex, gender identity or expression or sexual orientation. It recommended Barbados to enact legislation that prohibits employers from discrimination on the basis of sexual orientation and gender identity in the hiring process and at all levels and spheres of the employment process.

12. JS3 reported that discrimination and stigma are major barriers to accessing health care for LGBTQ+ individuals, resulting in refusal to provide health care, poor quality care and disrespectful or abusive treatment. It also noted that health care providers might have a poor understanding of the specific health care needs of LGBTQ+ people. JS3 reported that the pervasive stigma and discrimination had a negative impact on mental and emotional health of LGBTQ+ persons, leading to higher levels of stress, anxiety and self-harming behaviors such as suicide. It noted that adolescent LGBTQ+ persons faced difficulties accessing health care, including services, information and contraceptives, due to the legal gap between the age of consent and medical treatment age. JS3 further noted that hormone replacement therapy was not part of the national health program and quality hormones were limited in local pharmacies, forcing transgender individuals to turn to the black market.

## **B. SOGIESC Advanced Questions for Barbados**

- **Germany:** Barbados is in the process of drafting an anti-discrimination legislation. How will this include and protect LGBTI persons?

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<sup>1</sup> Joint Submission 3 Submitted by: EQUALS, Eastern Caribbean Alliance for Diversity and Equality (ECADE) and ARC International, St Michael, Barbados.



- **Slovenia:** We noted that there is no comprehensive anti-discrimination legislation to cover also discrimination on the grounds of sexual orientation. In the 2<sup>nd</sup> UPR review Slovenia recommended introducing measures to promote tolerance and non-discrimination of the LGBT persons. We would be interested to hear what steps have been undertaken in policy and legislation to protect LGBT persons from any acts of harassments, discrimination and violence?

### C. Barbados' Working Group Session

- **Opening Remarks:** Mr. President, in previous reviews, Barbados would have noted recommendations to legalise same-sex relationships. I therefore take the opportunity to reiterate that there is to date no political mandate for us to do so. In fact, significant sections of the community continue to be opposed to such. Similarly, there is no national consensus on the issue of repealing the country's laws on buggery. Although buggery is criminalised by Section 9 of the Sexual Offences Act, persons who engage in same-sex relations in Barbados are not prosecuted since the persons engaged in such relationships are unlikely to complain to the police – without a complainant, there can be no successful prosecution. Hence, persons are not prosecuted in Barbados for their sexual preferences. The Government of Barbados, through its various ministries and departments, and in collaboration with civil society and other stakeholders, promotes human rights education. It is recognised that such attitudes and behaviours will only be modified and mediated by application of this awareness-raising approach. The intent is to engage the general public about human rights, fundamental freedoms, and respect for the rights and the dignity of the individual.

Mr. President, we turn now to the matters relating to same-sex relations. As we have pointed out earlier, same-sex relations are not criminalised in our legislation – what is criminalised is buggery. The relevant government provisions confirm that in practice there is no intervention by the law between consenting adults. However, where a minor is involved, or in the case of a non-consenting adult, prosecution is possible against the offender involved.

### D. Recommendations for Cycle III (2018)

#### a) Remarks of States

- **Australia:** Australia is deeply concerned that LGBTI people continue to be subject to legislative and societal discrimination.
- **Brazil:** We also commend initiatives from high authorities in the country in support of tolerance and respect for the rights of LGBTI people (...).
- **Ireland:** Ireland remains concerned however, about discrimination against LGBTI persons in Barbados, in particular the criminalisation of consensual homosexual relations under provisions of the Sexual Offences Act. We again strongly encourage Barbados to decriminalise consensual same-sex conduct between adults and take all necessary steps to protect the LGBTI community from all forms of discrimination.
- **United Kingdom:** However, further progress is needed to tackle violence against women, and prevent discrimination against LGBT people.

#### b) The following recommendations have been examined by Barbados and have been noted by Barbados

- **Australia:** Amend its criminal code to decriminalise consensual same-sex acts, and to take steps to implement legislative and public policy measures to protect the rights of LGBTI people (6.48).

- **Canada:** Immediately repeal laws that criminalize consensual same-sex adult sexual relations (6.45).
- **Canada:** Combat discrimination, prejudice and violence based on sexual orientation and gender identity through legislative reform and by adopting awareness raising measures (6.49).
- **Chile:** Adopt legal measures to protect LGBTI persons against violence and discrimination based on sexual orientation or gender identity (6.50).
- **France:** Decriminalize same-sex relationships and combat discrimination against LGBTI persons (6.51).
- **Iceland:** Repeal the provisions that criminalize consensual homosexual relations, notably those contained in the Sexual Offences Act, and establish policies to combat discrimination, prejudice and violence based on sexual orientation and gender identity (6.44).
- **Italy:** Consider repealing provisions that criminalize homosexuality (6.47).
- **Mexico:** Establish a necessary normative framework to combat discrimination on the grounds of sex, sexual orientation and gender identity to promote sexual inclusion and gender equality (6.52).
- **Netherlands:** Enact legislation ensuring protection from discrimination on the grounds of sexual orientation or gender identity in the areas of employment, healthcare and education (6.42).
- **Timor-Leste:** Engage in public education and sensitization campaigns about LGBT rights (6.53).
- **United Kingdom:** Repeal all legal provisions which discriminate against persons on the grounds of their sexual orientation and gender identity, including relevant language in the Sexual Offences Act (6.43).
- **Uruguay:** Include LGBTI persons in new legislation, prohibiting any type of discrimination or violence based on sexual orientation or gender identity (6.46).
- **Uruguay:** Take measures to decriminalize consensual sexual relations between adults of the same sex (6.54).

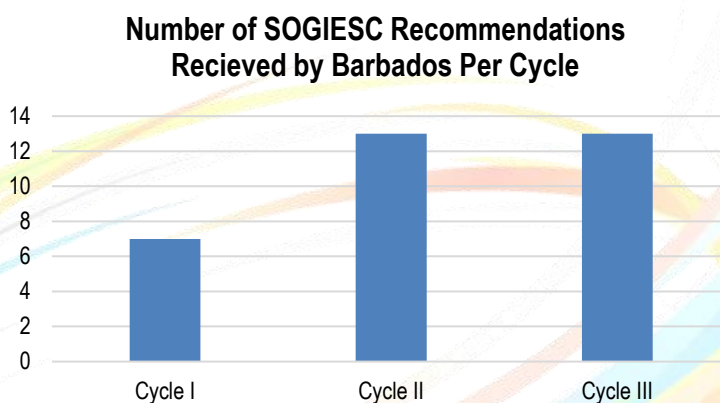
#### E. Recommendations for Cycle II (2013)

Recommending State	Recommendation	Response
Argentina	Continue efforts made aimed at combating discrimination and religious intolerance, especially against the rastafari, and to strengthen measures to eliminate any discriminatory treatment based on sexual orientation	Accepted
Brazil	Establish policies and initiatives to address discrimination based on sexual orientation and gender identity	Noted
Canada	Repeal laws that criminalize consensual same sex adult sexual relations	Noted
Estonia	Provide human rights education, including related to sexual orientation and gender	Accepted

	identity, to all law enforcement officials	
France	Repeal the provisions that criminalize consensual homosexual relations, notably those contained in the Sexual Offences Act and establish policies to combat discrimination, prejudice and violence based on sexual orientation or gender identity	Noted
Ireland	Decriminalise consensual same-sex conduct between adults and take all necessary steps to protect LGBT community from all forms of discrimination	Noted
Netherlands	Show leadership in human rights issues by protecting all human rights within the country, including those LGBT, and the freedom of movement and expression of human rights defenders, starting by organizing a dialogue between government, civil society and interested individuals, on these and other human rights related issues	Accepted
Norway	Repeal all provisions that criminalize same-sex conduct	Noted
Slovenia	Introduce measures to promote tolerance and non-discrimination of the LGBT persons	Noted
United Kingdom	Repeal all legislative provisions that discriminate against persons on the grounds of their sexual orientation, including in the Sexual Offences Act, within the next two years	Noted
United States	Amend the criminal code to decriminalize same-sex sexual activity between consenting adults and adopt legislation that prohibits discrimination on the basis of sexual orientation and gender identity	Noted
Uruguay	Implement measures to protect the LGBT population from	Accepted

	harassment, discrimination and violence	
Uruguay	Adopt all necessary political and legislative measures to decriminalize consensual same-sex sexual relations between adults	Noted

#### F. Graphic Comparison Between Cycles (1—3)



#### G. [Video of Barbados' UPR Working Group Session](#)

#### H. SOGIESC Mentions During Barbados' UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **United Kingdom:** Mr. President, we remain concerned that discrimination against LGBTI persons is still common in Barbados and hope that Barbados will accept our recommendation to repeal all legal provisions which discrimination against persons on the grounds on their sexual orientation and gender identity, including relevant language in the Sexual Offences Act.

## BOTSWANA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 17 JANUARY 2018, 09:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 19 JANUARY 2018, 15:00—18:00

*During the 29<sup>th</sup> UPR Working Group Sessions, Botswana received 15 SOGIESC recommendations. It noted all 15 recommendations.*

### A. SOGIESC Information

#### National Report

52. Botswana continues to implement court decisions giving beneficiaries their rights and consultations are ongoing with a view to review and reform national laws to address discrimination of marginalised and disadvantaged groups in the society such as refugees, lesbians, gays, bisexuals, trans-gender and/or intersex (LGBTI) persons, domestic workers, sex workers, asylum seekers and foreign inmates.

121. Where persons are of the opinion that their right to enjoy freedom of association is being infringed upon, they can take the matter to the courts. LEGABIBO recently sued the Government for refusing to register it as an Association. The Judgment on this matter was delivered on the 14th of November 2014 wherein the High Court held that “denying people whose sexual orientation is not a crime in Botswana.....the right to register a society for the purposes of lawfully carrying out advocacy for, inter alia, decriminalisation of homosexuality is a clear violation of their constitutional rights to freedom of...association contrary to Section 3 of the Constitution”...“In a democratic society such as ours, freedom of association, assembly and expression are important values duly protected by our Constitution...The enjoyment of such rights can only be limited where such limitation is reasonable and justifiable in a democracy.” This matter went on appeal and the High Court decision was upheld.

#### Compilation of UN Information

N/A

#### Summary of Stakeholder’s Information

17. JS2<sup>2</sup> recommended that the State under review enact anti-discrimination legislation to protect and promote the rights of sexual minorities and to promote awareness of sexual orientation and genders identity.

25. JS2 stated that there had been an emergence of religious churches which had no tolerance for those rights associated with sexual orientation and gender identity. Those churches promoted discrimination and sometimes the persecution of sexual minorities. JS2 recommended that the State under review

<sup>2</sup> Joint Submission 2 submitted by: Bible Society Botswana, Botswana Community Based Organisation Network, Botswana Federation of the Disabled, Bokanamo Conservation Trust, Botswana Labour Migrants Association, Botswana Network on Ethics, Law and HIV/AIDS, Botswana Network of People Living with Aids, BOSASNET, Botswana Tourism Organisation, DITSHWANELO – The Botswana Centre for Human Rights, Environmental Conservation Trust, Environmental Heritage, Green Fingers Association, Kagisano Women’s Shelter, Kwedom Council, Lesbians, Gays and Bisexuals of Botswana, Light and Courage Centre, Mazibakufa Orphans and Vulnerable Children, Men and Boys for Gender Justice, Methodist Church, MISA Botswana, Mmegi (Media), Ngamiland Council of Non-Governmental Organisations, Rainbow Identity Association, RETENG, Stepping Stones International, Thapong Artists, Ultimate Youth, Women Against Rape and Young Love, Gaborone, Botswana.

undertake a review of the legislation for the registration of societies and churches to ensure that registered organisations strictly adhere to human rights standards, including those of non-discrimination.

36. While noting the development of a national strategy to combat HIV and AIDS, JS2 stated that the implementation of the strategy must be inclusive and cover all key populations including men who have sex with other men, the LGBTIQ community and sex workers. Also, service providers should be trained to provide the required assistance to all members of the key populations.

## B. SOGIESC Advanced Questions for Botswana

- **Belgium:** Can the Government of Botswana provide more information on how the National Strategic Framework for HIV/AIDS has been implemented in practice? Are there measures in place to ensure that the current programs promoting access to HIV services are not used as means to target LGBTI persons?
- **Sweden:** Considering the progressive judgements in recent years, including to allow LEGABIBO to officially register as a non-profit organisation and in upholding the rights for persons regardless of their sexual orientation and gender identity, is the Government of Botswana considering a review of the Botswana Penal Code Division III, sections 164, 165 and 167?
- **United Kingdom:** What plans does the Government of Botswana have for education programmes and discussions with the general public on LGBT issues, to create the right environment to move towards possible decriminalisation of consensual same sex sexual activities.

## C. Botswana's Working Group Session

- **Opening Remarks:** Together, we were able to identify key issues that affect the general populace and could impact upon the ability of all to enjoy equal human rights. These issues included: Combating HIV/AIDS; Gender Equality; Gender Based Violence; Disability Rights; Rights of Prisoners; Poverty Reduction; Sexual and Reproductive Rights; Cultural Rights; Children's Rights; Corporal Punishment; Sexual Orientation and Gender Identity; as well as the Establishment of a National Human Rights Institution.

## D. Recommendations for Cycle III (2018)

### a) Remarks of States

- **Australia:** Australia welcomes recent judicial decisions relating to sexual orientation.
- **Canada:** Canada also welcomes the recent court judgements in Botswana enabling transgender persons to change their gender status on national identity registration documents to reflect their gender identity.
- **France:** France welcomes the important progress made by Botswana in the area of human rights. Freedom of the press and expression is assured; LGBT and transsexual rights are taken into account in case law; the cultural rights of persons belonging to minorities are better respected; HIV programs cover the entire population.
- **Ireland:** In particular, we welcome progress in relation to LGBTI rights - however, we are concerned that consensual adult same-sex sexual activities remain criminalised under the Penal Code, and that stigmatisation of LGBTI persons continues.
- **United Kingdom:** The registration of the Lesbians, Gays and Bisexuals of Botswana is positive. We hope a public education programme will follow that creates an environment for future decriminalisation of same-sex sexual activities.

- **United States:** We commend recent court rulings affirming the rights of transgender persons and encourage further action to protect members of the LGBTI community from discrimination.

**b) The following recommendations have been examined by Botswana and have been noted by Botswana**

- **Argentina:** Analyse modifying the legislation that criminalises sexual relations between adults of the same gender in order to guarantee the rights of LGBTI persons (8.49).
- **Australia:** Enact legislation to eliminate discrimination on the basis of sexual orientation and gender identity (8.11).
- **Brazil:** Ensure adopting of specific legislation to fight discrimination, hate speech and violence based on sexual orientation and gender identity (8.12).
- **Canada:** Repeal laws that criminalize consensual same-sex conduct between adults and ensure all legislation, policies and programs do not discriminate on the bases of sexual orientation or gender identity (8.47).
- **Finland:** Initiate awareness-raising activities to the general public on the human rights of LGBTI persons in order to prevent stigma and discrimination and to support civil society actors in their similar efforts (8.15).
- **France:** Authorize sex changes (7.47).
- **France:** Repeal the law repressing homosexuality (8.50).
- **Germany:** Protect LGBTI-persons from discrimination by amending sections 164, 165 and 167 of the Botswana Penal Code to decriminalize same-sex activities among consenting adults and by explicitly including sexual orientation and gender identity as listed grounds of non-discrimination in Section 3 of the Constitution (8.13).
- **Iceland:** Decriminalize same-sex sexual activities and ensure non-discrimination in accordance with Botswana's domestic and international human rights obligations (8.46).
- **Netherlands:** Adopt specific legislation to protect victims of violence and other human rights violations committed against persons on the basis of their real or imputed sexual orientation or gender identity, in line with resolution 275 of the African Commission on Human and People's Rights (8.9).
- **Philippines:** Continue to address concerns on discrimination based on sex, sexual orientation or gender identity (7.46).
- **Spain:** Decriminalize consensual sexual relations between people of the same sex and act to stop the discrimination suffered by the people because of their sexual orientation (8.48).
- **Sweden:** Decriminalize consensual, same-sex sexual acts (8.45).
- **United States:** Build upon recent court decisions upholding the human rights of transgender persons and take action to decriminalise LGBTI status or conduct (8.51).
- **Uruguay:** Prohibit discrimination towards LGBTI community, at the same time ensuring the full respect of everyone's human rights regardless of their sexual orientation or gender identity (8.14).

**E. SOGIESC Recommendations Shared by HRDs During ILGA's UPR Advocacy Week in Geneva**

**Botswana LGBTI Coalition and the National NGO UPR Working Group**

- To review in consultation with Civil Society working with the LGBTI community, the sections 164, 165 and 167 of the Penal code with the aim to decriminalize consensual adult same-sex activities.

- To commit a budget to support CSOs that implement initiatives that disseminate information on LGBT persons among the general public as a way of preventing stigma and discrimination and paving way for decriminalization.
- To explicitly include sexual orientation and gender identity as listed grounds of non-discrimination in Section 3 of the Constitution.
- Ensure enactment of specific legislation that addresses homophobia and hate speech and enable LGBT persons to access justice where such rights have been infringed.
- Adopt national legislation that allows transgender persons and gender non-conforming to change the gender marker in their national identity documents so as to uphold dignity.
- To train law enforcement officers, healthcare workers and the general public on sexual orientation and gender identity issues in order to prevent discrimination and homophobia.
- To support efforts made by civil society in educating the general public and changing mindsets on LGBT issues; openly condemning discrimination of LGBT; disseminating positive court decisions that protect the human rights of LGBT persons.

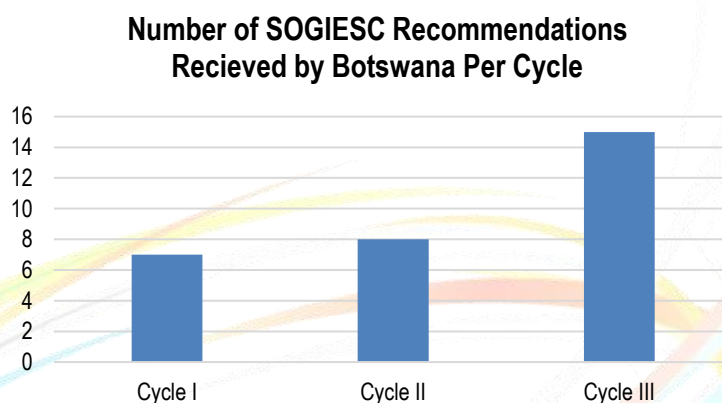
#### F. Recommendations for Cycle II (2013)

Recommending State	Recommendation	Response
Argentina	Evaluate to repeal the criminalization of same-sex relations	Noted
Australia	Take steps to implement comprehensive anti-discrimination laws, particularly to eliminate discrimination on the basis of sexual orientation	Noted
Canada	Engage in a dialogue to repeal laws which criminalize consensual adult same sex relations	Noted
Czech Republic	Decriminalize consensual same-sex activities between adults and promote tolerance in this regard	Noted
France	Guarantee the fundamental rights of all persons living in Botswana and thereby decriminalize sexual relations of consenting adults of the same sex	Noted
Netherlands	De-criminalize same sex activities and adopt policies to counter discrimination against LGBT	Noted
Spain	Decriminalize consensual sexual relations between same-sex adults and strength efforts to combat discrimination	Noted



	against those persons, while respecting their rights to association and representation in civil society	
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### G. Graphic Comparison Between Cycles (1—3)



### H. [Video of Botswana's UPR Working Group Session](#)

#### I. SOGIESC Mentions During Botswana's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **ILGA and COC Netherlands:** ILGA and COC Netherlands expressed regret that the government noted recommendations on sexual orientation and gender identity. However, it commended the government for implementing a court decision on legal gender recognition as well as holding consultations with LGBTI groups.
- **Action Canada for Population and Development:** Action Canada for Population and Development said that the government's denial of rights relating to sexual orientation and gender identity and expression undermines its commitment to the right to health and combatting gender-based violence.

## BURUNDI UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 18 JANUARY 2018, 09:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 23 JANUARY 2018, 16:30—18:00

*During the 29<sup>th</sup> UPR Working Group Sessions, Burundi received 11 SOGIESC recommendations. It noted all 11 recommendations.*

### A. SOGIESC Information

#### National Report

N/A

#### Compilation of UN Information

N/A

#### Summary of Stakeholder's Information

13. HRW<sup>3</sup>, JS2<sup>4</sup> and JS5<sup>5</sup> noted that Burundi criminalized consensual same-sex conduct for the first time in April 2009 and did not follow the recommendations made during the 2012 UPR to repeal these provisions. Further, they indicated article 567 of the penal code penalizes consensual same-sex sexual relations by adults with up to two years in prison. HRW, JS2 and JS5 recommended decriminalizing consensual same-sex relations by revoking relevant articles of the Penal Code and removing discrimination on grounds of sexual orientation or gender identity from other laws and state policies, including Burundi's educational policy.

14. JS1 said that the Government of Burundi had enacted a law punishing sexual and gender-based violence. However, it was not comprehensive and its silence on the rights of homosexuals and lesbians gave cause for concern. They recommended the introduction of support measures for the effective implementation of the law, such as the creation of a specialist police unit to deal with sexual and gender-based violence.

21. JS5 stated that there had been numerous cases of arbitrary arrest and illegal detention by police of members of the LGBT community in Burundi. In some cases, the reason for their arrest was their sexual orientation and gender identity and/or expression. JS5 recommended taking all necessary measures to effectively protect homosexuals from threats to their physical integrity and from discrimination of any kind.

31. JS5 said that the freedom of assembly was one of the rights that was still not guaranteed to the LGBT community in Burundi. The activities of homosexual persons were continually impeded by the security forces and local authorities. They recommended taking all necessary measures to guarantee complete freedom of assembly and expression without discrimination.

<sup>3</sup> Human Rights Watch.

<sup>4</sup> Joint Submission 2 submitted by: International Service for Human Rights, Action des Chrétiens pour l'Abolition de la Torture (ACAT-Burundi), Geneva, Switzerland.

<sup>5</sup> Joint Submission 5 submitted by: MOLI Burundi, Rainbow Candle Rights, Transgender in Action MOLI, Bujumbura, Burundi.

43. JS5 reported that significant advances had been noted since 2007 in the area of HIV prevention for men who had sex with men. Sexual minorities had been included in the 2012-2016 strategic plan to combat AIDS, as a high-risk vulnerable group. Despite all these advances, there were still cases of discrimination and stigmatization, both in care institutions and on the part of the administrative authorities. They recommended taking all necessary measures to guarantee LGBT persons effective access to health care, without discrimination.

47. JS5 reported that the literacy rate was relatively very low in the LGBT community, with many young LGBTI persons dropping out of school. This was the result of the discrimination and violence that they faced from peers and teachers in school on a daily basis.

## **B. SOGIESC Advanced Questions for Burundi**

- **Slovenia:** Regarding Slovenia's recommendation noted by Burundi during the 2<sup>nd</sup> UPR cycle, we would like to inquire with the Government of Burundi on steps already taken and those still planned to decriminalize same-sex relations and prevent intimidation and discrimination of homosexuals in various spheres of life.

## **C. Burundi's Working Group Session**

- **Closing Remarks:** Once again, we've been asked about same-sex sexual intercourse. We reject calls for decriminalisation. This is because the mindset in Burundi hasn't developed yet to allow for this. So, we're going to reject that recommendation (...).

## **D. Recommendations for Cycle III (2018)**

### **a) Remarks of States**

- **Australia:** (...) Australia welcomes recent judicial decisions relating to sexual orientation.
- **Slovenia:** Mr. President, my country remains concerned over human rights situation in the country in general, especially by reports on restriction of freedom of expression; on violence, harassment and intimidation of human rights defenders; on discrimination and prosecution of LGBTI community; and on the exacerbation of gender-based and sexual violence.

### **b) The following recommendations have been examined by Burundi and have been noted by Burundi**

- **Argentina:** Take the necessary measures to repeal the legal provisions which criminalize and discriminate against LGBTI people (6.97).
- **Australia:** Take steps to decriminalise same-sex relations (6.95).
- **Australia:** Establish legal protections against discrimination based on sexual orientation or gender identity (6.98).
- **Canada:** Actively promote gender equality, the prevention of sexual and gender-based violence, and awareness to LGBTI issues, including the strengthening of the legal framework in this area (6.209).
- **Chile:** Ensure non-discrimination on the basis of sexual orientation and gender identity, in line with Burundi's national and international human rights obligations (6.99).
- **Ecuador:** Decriminalize homosexuality and abolish practices that promote sexual orientation-based discrimination (6.94).

- **Greece:** Investigate, prosecute lawfully and, if convicted, adequately punish those guilty of human rights violations, including those committed against human rights defenders, members of civil society and the press, as well as against LGBT people (6.123).
- **Iceland:** Decriminalize homosexuality (6.93).
- **New Zealand:** Continue to significantly strengthen measures combatting gender based and sexual violence towards women, and consider decriminalizing certain conduct based on sexual orientation and gender identity (6.223).
- **Timor Leste:** Decriminalize homosexuality (6.93).
- **Uruguay:** Take measures to decriminalize consensual sexual relations between same sex adults, guaranteeing the full respect for human rights of all, regardless of the sexual orientation or gender identity (6.96).

**E. SOGIESC Recommendations Shared by HRDs During ILGA’s UPR Advocacy Week in Geneva**

**MOLI Burundi, Rainbow Candle Light and Transgender Intersex in Action**

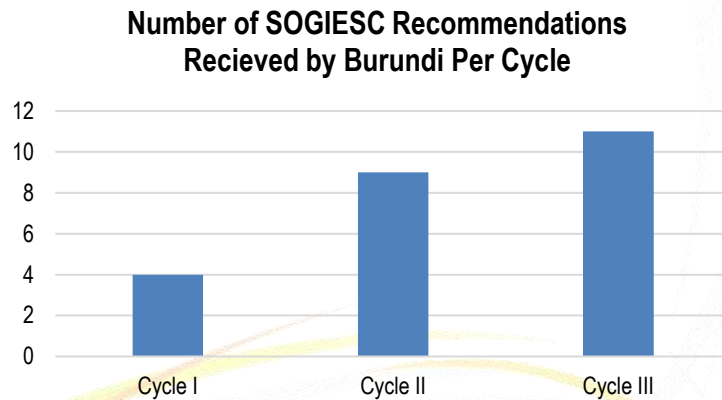
- Repeal Article 567 of the Penal Code criminalizing same-sex relationships between consenting adults.
- Establish a complaints mechanism within the police to prevent, investigate and prosecute all forms of discrimination and violence including those based on real or perceived sexual orientation and gender identity.
- To develop in the next two years a manual for healthcare professionals and providers on how to treat LGBT patients competently, that is based on the principles of equality and non-discrimination.
- Providing comprehensive training programs for healthcare professionals on the specific needs and rights of LGBT patients.
- Amend the Ministerial Order number 620/613 of June 7th, 2011 establishing the school regulation in force in Burundi, and prevent its discriminatory application based on real or perceived sexual orientation and gender identity.
- Take all necessary positive measures to guarantee all freedom of assembly and expression without any discrimination by ensuring that the registrations procedures are not imposing unjustifiable limitations, including on grounds of morality and public order.

**F. Recommendations for Cycle II (2013)**

Recommending State	Recommendation	Response
Brazil	Ensure that no one is discriminated against on any grounds, including on the grounds of sexual orientation and gender identity	Noted
Canada	Undertake a process of revising its penal code by aiming to amend article 567 criminalizing relationships between persons of the same sex	Noted

Chile	Reconsider decriminalizing certain conducts based on sexual orientation and gender identity, as recommended by the High Commissioner for Human Rights	Noted
Colombia	Implement follow up mechanisms of the UPR recommendations that allows verifying the implementation and impact of legislation and measures adopted to promote equal rights and non-discrimination for all citizens, in particular vulnerable groups such as: women, children, ethnic minorities, LGBTI community and persons with disabilities	Noted
Netherlands	Revise its education policy that further entrenches discrimination on the basis of sexual orientation	Noted
Slovenia	Repeal the provisions of the 2009 Criminal Code which criminalize sexual relations between consenting adults of the same sex	Noted
Spain	Decriminalize sexual relations between consenting adults of the same sex as well as abolish other rules which promote discrimination based on sexual orientation	Noted
United States	Investigate, prosecute and, if convicted, punish perpetrators of human rights abuses, including those committed against civil society groups, members of the media and LGBT individuals	Noted
Uruguay	Adopt all necessary political and legislative measures to decriminalize sexual relations between consenting adults of the same sex as well as adopt measures to guarantee the enjoyment of the right to health without discrimination based on sexual orientation	Noted

## G. Graphic Comparison Between Cycles (1—3)



## H. [Video of Burundi's UPR Working Group Session](#)

### I. SOGIESC Mentions During Burundi's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **ILGA:** ILGA urged Burundi to respect the human rights of all individuals, regardless of their sexual orientation or gender identity. It drew attention to human rights abuses against sexual minorities, including arbitrary arrests and denial of the freedom of association and assembly.

**FRANCE**  
**UPR SOGIESC RECOMMENDATIONS**

**DATE AND TIME OF THE REVIEW: 15 JANUARY 2018, 09:00—12:30**

**DATE AND TIME OF THE ADOPTION OF THE REPORT: 19 JANUARY 2018, 15:00—18:00**

*During the 29<sup>th</sup> UPR Working Group Sessions, France received 6 SOGIESC recommendations. It accepted all 6 recommendations.*

**A. SOGIESC Information**

**National Report**

7. Combating discrimination is a government priority. Article 225-1 of the Criminal Code provides that discrimination means any distinction made between physical and legal persons based on their origin, sex, family situation, pregnancy, physical appearance, particular vulnerability resulting from their economic situation that is apparent or known to the perpetrator, their surname, place of residence, state of health, loss of independence, disability, genetic characteristics, customs, sexual orientation, gender identity, age, political opinions, union activities, ability to speak a language other than French, real or supposed belonging or not belonging to an ethnic group or nation, alleged race or particular religion.

23. With Act No. 2013-404 of 17 May 2013 on marriage for all, France became the ninth European country and the fourteenth worldwide to allow same-sex marriage. This Act opened up new rights for marriage, adoption and inheritance in the name of the principles of equality and shared freedoms. The legislator introduced provisions on adoption of the spouse's previously adopted child and the maintenance of contact with the step-parent in the event of separation. The regulations on transmission of the surname were amended.

24. The Act of 18 November 2016 modernizing the judicial system of the 21st century introduced into the Civil Code a specific and completely unmedicalized procedure whereby adults and minors free of incapacities imposed by minority may request that their sex be amended in the civil status register if they can demonstrate that it does not correspond to the one they live as and are known by.

25. Furthermore, the Act on equality and citizenship substitutes for the concept "sexual identity" that of "gender identity" in order to define the aggravating circumstances of certain offences.

26. Continuing the programme of action presented in 2012, a plan against anti-LGBT hatred and discrimination (2017-2020) was adopted in January 2017 to combat more effectively discrimination based on sexual orientation and gender identity, in particular by financing local and national associations to carry out awareness-raising and training aimed at improving the response of the criminal justice system and specific victim support.

**Compilation of UN Information**

9. UNESCO noted that France had adopted a number of measures designed to prevent all forms of discrimination, including sexism, racism and homophobia. A governmental plan of action for combating racism and anti-Semitism had been presented in April 2015, and a campaign to combat homophobia had been launched in December 2015. The Committee on the Elimination of Discrimination against Women

commended France on its exhaustive anti-discrimination legal framework, especially in the light of the adoption of Act No. 2014-873 on substantive equality between women and men.

10. The Committee on the Rights of the Child was concerned about the persistence of discrimination on the grounds of sex, gender identity, disability, national origin, social and economic origin or other grounds and the racial discrimination against and stigmatization of Roma children. The Committee urged France to foster a culture of equality, tolerance and mutual respect to prevent and combat persistent discrimination.

### Summary of Stakeholder's Summary

22. Inter-LGBT found that despite the progress made in terms of the rights of LGBT persons, hate speech had grown, especially on the social networks. Inter-LGBT recommended that French law should change in order to take better account of the victims of violence and multidimensional discriminations and that France should pursue an ambitious education policy to combat all gender stereotypes and discriminations against LGBT persons.

23. AI<sup>6</sup> reported that in 2016, Parliament adopted a law to enable transgender people to gain legal recognition of their gender without fulfilling any medical requirement. AI recommended ensuring that transgender people can obtain legal recognition of their gender through a quick, accessible and transparent procedure, while preserving their right to privacy.

### **B. SOGIESC Advanced Questions for France**

N/A

### **C. France's Working Group Session**

- **Opening Remarks:** The fight against discrimination based on sexual orientation and gender identity is another priority. In May 2013, France authorized same-sex marriage, becoming the 14th country in the world to legalize same-sex marriage. Since the law of 18 November 2016 on the modernization of justice in the 21st century, anyone can ask for a change in the mention of sex in the civil register if it shows that it does not correspond to the one in which it is known. Finally, continuing the efforts made by the action program presented in 2012, a €5 million anti-LGBT mobilization plan (2017-2020) was adopted in January 2017. This plan strengthens the measures to combat discrimination related to sexual orientation and gender identity, in particular by funding local and national associations for their awareness-raising and training activities aimed at improving the criminal justice response, the specific care of the victims. 128 national and local projects were supported in 2017 following the call for projects managed by the interministerial delegation to fight against racism, antisemitism and anti-LGBT hatred.

France has also set out to give a new dimension to its fight against racism, xenophobia and anti-Semitism, which it was declared as the Great National Cause in 2015.

(...) In order to ensure that these various commitments are followed up, France has pursued a proactive criminal policy and strengthened its legislative framework, to facilitate the reporting of discrimination to the judicial authorities and to promote the quality of investigations. For example, the Equality and Citizenship Act of 27 January 2017 strengthened the effectiveness of the action of the justice system against racism. A specific legislative arsenal has been adopted to combat

<sup>6</sup> Amnesty International.



hate speech online; the criminal liability of content providers is now engaged in case of dissemination of illegal content. Lastly, training and awareness-raising activities on racism, anti-Semitism and hate speech are regularly provided to police officers, gendarmes, magistrates or court clerks. I will come back later in our dialogue on the new 2018-2020 plan being prepared by the Interministerial Delegation for the fight against racism, anti-Semitism and anti-LGBT hatred.

- **Intervention Made by France After 40 Interventions:** The third point deals with anti-LGBT hate speech. In this context, I would like to refer to the National Plan to deal with all hatred expressed against LGBT of which 128 projects have been funded. These projects are educational, cultural and deal with the fundamental role of the state, and have also been carried out in the area of sport. There's a great deal to be done in this regard.
- **Intervention Made by France After 79 Interventions:** The law of 18 November 2016 to modernize the justice of the 21st century allows the modification of the mention of sex in civil status. Since gender identity or the indication of sex is a component of the status of persons, the sex change in the state remains a judicial procedure, but this modification is no longer conditional on the demonstration of the irreversibility of the transformation of appearance. The conditions to be able to change one's sex in the civil status are: to present oneself publicly as belonging to the sex claimed; to be known under the claimed sex of his family, friendly or professional entourage; have obtained the change of his first name so that it corresponds to the sex claimed. The law makes it very clear that failure to undergo medical treatment, surgery or sterilization can not justify the refusal to change the sex in the civil registry.

#### D. Recommendations for Cycle III (2018)

##### a) Remarks of States

- **Argentina:** We highlight the efforts made by France to combat discrimination against LGBTI people.
- **Australia:** Australia welcomes steps France has taken to protect human rights including laws to allow same-sex couples to marry, and laws to simplify the procedure for trans individuals to change their civil status. While Australia acknowledges laws introduced in support of LGBTI people, it notes remaining concerns about the rights of intersex people.
- **Brazil:** Brazil also congratulates France on the adoption of the law on marriage for all and the mobilisation plan against hatred and discrimination against LGBTI persons 2017-2020.
- **Canada:** We are pleased with France's progress on human rights, including the equality of LGBTI people. We hope that France will continue to act in this way by allowing access to medically assisted procreation for same-sex couples and the recognition of children born to surrogacy abroad.
- **Denmark:** Denmark praises France's progress on the issue of LGBT rights and commends the elaboration of the national plan to fight discrimination against LGBT people adopted in December 2016
- **Estonia:** Estonia commends France for several developments in the strengthening of the protection and promotion of human rights during the past period, including adoption of the plan against anti-LGBT hatred and discrimination [2017-2020] to further combat discrimination based on sexual orientation and gender identity.
- **Iceland:** We commend France for its continuous work to promote Human Rights in the world, emphasising its commitment to women's and children's rights as well as France's work for LGBT rights both domestically and abroad.

- **Madagascar:** However, we have noted with regret the persistence of discrimination based on gender identity, national, social or economic origin taking place in all social, political and media domains.
- **Montenegro:** We particularly commend the adoption of the Act on marriage for all, and the adoption a new Plan against anti – LGBT hatred and discrimination (2017-2020), improving the combat against discrimination based on sexual orientation and gender identity.
- **Slovenia:** We welcome information on positive developments, such as the adoption of several measures aimed at preventing discrimination and the introduction in legislation of unmedicalized procedure enabling individuals to request amendment of gender in their civil status register.

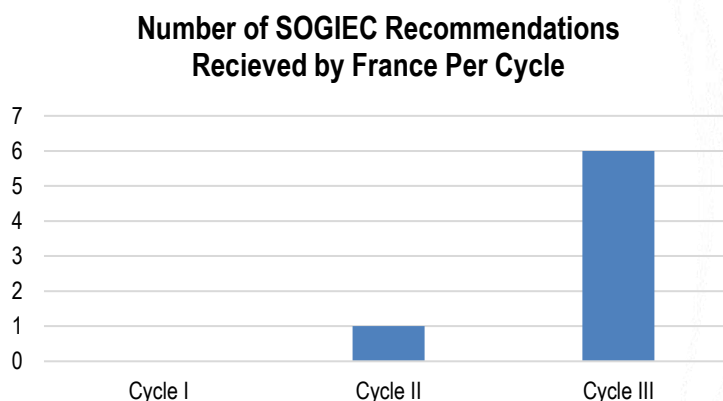
**b) The following recommendations have been examined by France and have been accepted by France**

- **Argentina:** Take the necessary measures to punish hate speech, in particular in the social media, against the LGBTI community (6.96).
- **Australia:** Take steps to introduce legal protections from discrimination on the grounds of intersex status (6.92).
- **Austria:** Ensure the follow up and an independent assessment of the implementation of the mobilisation plan against anti-LGBT hatred and discrimination (2017-2020) (6.93).
- **Belgium:** Make sure it is easier for transgender people to obtain official recognition of their gender by a rapid, accessible and transparent procedure (6.94).
- **Chile:** Continue stepping out measures to protect LGBTI persons, with special emphasis on the elimination of hate speech and discrimination (6.95).
- **Spain:** Establish a mechanism to monitor and evaluate independently the actions undertaken within the framework of the National Mobilization Plan against hate and anti-LGBT discrimination (6.91).

**E. Recommendations for Cycle II (2013)**

Recommending State	Recommendation	Response
Belarus	Adopt additional measures for the protection of the family institution and stop propaganda on relations between same-sex couples at the state level. Bring up the issue of adoption of children by same-sex couples to the public consideration	Noted

**F. Graphic Comparison Between Cycles (1—3)**



### G. Video of France's UPR Working Group Session

#### **H. SOGIESC Mentions During France's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)**

- **France (Opening Remarks):** It goes without saying that France has also accepted the recommendations on discrimination against the LGBTI community. A plan to mobilize against LGBTI discrimination received a €1.5 million investment. It was adopted in December 2017 and this plan improves our struggle against discrimination based on sexual orientation and gender identity. France is resolved to pursue these efforts.
- **The French National Consultative Commission on Human Rights (NHRI):** We should welcome [...] progress accomplished in the context of LGBT persons.
- **World Evangelical Alliance:** The World Evangelical Alliance invited France to extend its Interministerial Delegation to the Fight Against Racism, Antisemitism and Anti-LGBT Hate to also include the fight against hatred against people by virtue of their opinion, beliefs or religion in general.
- **International Federation for Human Rights Leagues:** International Federation for Human Rights Leagues urged France to implement and independently evaluate the National LGBT Anti-Hate and Anti-Discrimination Plan.

## ISRAEL UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 23 JANUARY 2018, 09:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 25 JANUARY 2018, 16:30—18:00

*During the 29<sup>th</sup> UPR Working Group Sessions, Israel received 2 SOGIESC recommendations. It accepted all 2 recommendations.*

### A. SOGIESC Information

#### National Report

4. Since the last reporting cycle, Israel also introduced, in 2017, a series of "Round Tables". This project entailed six discussion sessions in academic institutions located throughout Israel so as to facilitate diverse participation. The sessions offered a unique platform for free discourse between civil society, academics and government representatives on core human rights issues related inter alia to: LGBT Rights; Israelis of Ethiopian descent; the local Bedouin population; women's rights; rights of persons with disabilities; and social and economic rights in the periphery. One of the aims of this project was to allow grass roots organizations, which usually do not have the resources to submit shadow reports to the general treaty bodies and UPR process, to participate in the UN HR reporting mechanism.

24. Israel steadfastly protects the rights of its citizens to live freely according to their sexual orientation and gender identity and actively promotes the development of rights for the LGBT community.

25. Since the last cycle, there have been a number of notable legislative and administrative developments affecting the LGBT community, including:

(a) The September 2017 notice by the MOLSASS<sup>56</sup> that it supports changing the legislative criteria which requires an adoptive couple to be a "man and his wife", to a new gender-neutral standard that simply requires that adoptive parents have a stable and ongoing relationship.

(b) The introduction, in 2016, of a PIBA policy that shortens the process by which a same-sex spouse of an Israeli citizen may receive a visa.

(c) The 2014 adoption of Amendment No. 4 to the Pupil's Rights Law 5761- 2000, adding sexual orientation and gender identity to the list of grounds upon which discrimination against pupils is prohibited.

(d) The 2014 modification of the template for identity cards by the MOI, allowing for the clear designation of same-sex parents.

26. Recent court decisions protecting the rights of same-sex couples in Israel include:

(a) A 2016 National Labor Court decision (overturning a previous ruling by the Tel Aviv-Jaffa District Labor Court) held that the constitutional right of a same-sex couple to create a family enables it to benefit from the same entitlement terms granted to heterosexual families, as laid out in the National Insurance Law. This ruling enshrines the principle of non-discrimination against same-sex couples with regard to National Insurance benefits.

(b) The 2014 Jerusalem District Court decision rejecting an appeal filed by a Guest House regarding whether a certain venue can refuse to hold a same-sex wedding. The Court stressed that the principle of equality was a fundamental principle of Israel's legal system and that preventing a same-sex couple from getting married at a certain venue is discriminatory.

(c) The 2013 Tel Aviv-Jaffa Family Court ruling that a same-sex couple could be registered as parents and recognized as joint parents through a judicial parenthood order, without a social services' review.

27. Israeli courts have also taken a clear stance against violence in the LGBT context. In April 2016, the Jerusalem District Court convicted Yishay Shlisel of murder, six counts of attempted murder and injury under aggravated circumstances, after he stabbed seven people in the Jerusalem Pride Parade in July 2015. Shlisel was sentenced to life imprisonment with an additional 31-year imprisonment sentence and was ordered to compensate the deceased's family and other victims in the total amount of 2,064,000 NIS.

28. Furthermore, Israel has played a significant role in promoting the rights of the LGBT community at the UN and beyond. The permanent mission of Israel to the UN is a long-standing member of the LGBT core group in New York. Israel actively fought to protect the mandate given to the Independent Expert on SOGI, voting several times in favor of the position and delivering supportive statements in the third and fifth committees and in the General Assembly. It has also co-sponsored many side events held by the core group to raise awareness and promote the rights of the LGBT Community. Finally, Israel is a founding member of the recently established ERC, a group of countries (outside the auspices of the UN) committed to promoting the rights of the LGBT community.

60. In addition to Jewish and civilian burial, persons of other faiths are buried according to their own customs in Israel. Likewise, in an appeal brought by the mother of a transgender woman who requested in her will that her body be cremated upon her death, the Supreme Court upheld the Jerusalem District Court decision to honor the deceased's request.

### [Compilation of UN Information](#)

N/A

### [Summary of Stakeholder's Information](#)

37. JS6<sup>7</sup> indicated that under Israeli law, the adoption process for a child who is not a biological child of one of the parents was available only to heterosexual couples. JS6 also noted that same-sex male couples interested in giving birth to their own biological child via surrogate motherhood needed a surrogate mother, and the surrogacy law permitted access to surrogacy only to heterosexual married individuals.

38. JS6 indicated that the Israeli regulations on changing the sex designation clause in the public registry ("State IDs") raised procedural obstacles and denied transgender people the right to recognition of their gender identity. Changing the sex designation clause was conditioned on undergoing sex reassignment

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<sup>7</sup> Joint Submission 6 submitted by: 'Hoshen' – Education and Change; 'Ha-Aguda' – the National Association of LGBT in Israel; 'Havruta' – Religious Gays, 'Ma'avirim' – Israeli Transgender Community; 'Tehila' – Support for Parents and Families of LGTB; the LGBT House in Be'er Sheva and The Association of Israeli Gay Fathers (Israel).

surgery, but new regulations added another path conditioned on the approval of a Public Committee appointed by the Ministry of Health. JS6 noted with concern some preconditions for the approval.

52. JS6 highlighted the situation of Gender Adjustment Treatments, and stated that sometimes the complementary treatments were not accessible to transgender people due to several regulatory failures in this domain.

## B. SOGIESC Advanced Questions for Israel

N/A

## C. Israel's Working Group Session

- **Opening Remarks:** With the 2030 Agenda, Israel, as part of the international community, is committed to achieve equality and leave no one behind, and has taken various steps towards the realization of the Sustainable Development Goals with regards to many groups, among them women, minorities and LGBTI community.

Since 2012, the Ministries of Justice and Foreign Affairs, together with the Minerva Center for Human Rights at the Hebrew University, have participated in a project centered on the reporting process to the UN human rights committees. Regular meetings are held, attended by representatives of government ministries, NGOs and academics in which NGOs are encouraged to comment on drafts of the government reports. NGOs are also encouraged to submit alternative reports to the committees. (...) As part of this cooperation, and in preparation for this UPR session, the Ministries of Justice and Foreign Affairs initiated 'Round Tables' project. This project entails six discussion sessions which offered a unique platform for open discourse between civil society, academics and government representatives on core human rights issues, including LGBT rights, issues affecting Israelis of Ethiopian descent, the local Bedouin population, women's rights, rights of persons with disabilities, and social and economic rights in the periphery.

- **Intervention Made by Israel After 23 Interventions:** Throughout the years, the Israeli legislators have expanded the grounds on which an employee can claim discrimination and be awarded compensation. Currently, there are 16 such grounds, including gender, pregnancy, fertility treatment, age, opinion, nationality, religion, sexual orientation, race and colour.
- **Intervention Made by Israel After 63 Interventions:** I would like to say that the Authority has recently proceeded to take charge of members of the LGBT community in Israel, and we changed the name of the Authority to the Authority for Gender Equality and are working on thousands of dollars campaigns regarding tolerance for the LGBT community.

Also, publication of photographs, video clips or recordings focusing on person's sexuality against their will [inaudible] to humiliate him is now also considered to be a sexual harassment offence punishable by 5 years imprisonment.

## D. Recommendations for Cycle III (2018)

### a) Remarks of States

- **Brazil:** Brazil also commends the various initiatives taken to protect the rights of the LGBT community and to combat violence based on sexual orientation or gender identity.
- **Canada:** Canada also welcomes the measures recently adopted by the Israeli government to promote the equality of LGBTI persons, including the introduction of gender-neutral legislative criteria for adoption, and the addition of sexual orientation and gender identity to the prohibited grounds of discrimination listed in the *Pupil's Rights Law*.
- **Costa Rica:** We highlight the advances in the rights for the LGBT community, in the issue of gender equality.
- **Czechia:** We also praise the conducive environment for the living of some minority groups, such as the LGBTIs.
- **Germany:** Germany welcomes the delegation of Israel to the UPR and commends Israel for its engagement with the Human Rights Council and for progress made with regards to the rights of LGBTI persons.
- **Iceland:** Iceland welcomes the efforts of Israel to combat violence against women and commends developments regarding the human rights of LGBTI persons.
- **Italy:** Italy welcomes Israel's commitment to the Universal Periodic Review. We welcome in particular, since the second cycle, the measures adopted to promote gender equality, women's participation in public life and LGBT rights, as well as the promotion of a disability rights agenda.
- **Mexico:** We celebrate the strategies and policies aimed at eliminating gender violence, as well as the defense and promotion of the rights of LGBTI people.
- **Montenegro:** We particularly commend Israeli efforts and its active role and participation in all UN fora defending the rights of LGBTI persons.
- **Norway:** Norway welcomes the presentation of Israel's national report. In particular, we commend Israel's progressive stance on LGBT rights, and we note progress made for certain social rights.
- **Timor-Leste:** Timor-Leste appreciated the engagement of Israel with civil society regarding the UN human rights treaty bodies and UPR reporting process, in particular the series of 'Round Tables' in 2017 where it was discussed LGBTI rights, women's rights and rights of persons with disabilities.
- **Uruguay:** Uruguay highlights Israel's commitment to gender equality and welcomes the efforts made by that country in relation to non-discrimination and respect for the rights of LGBTI people, we encourage them to continue making progress in this regard.

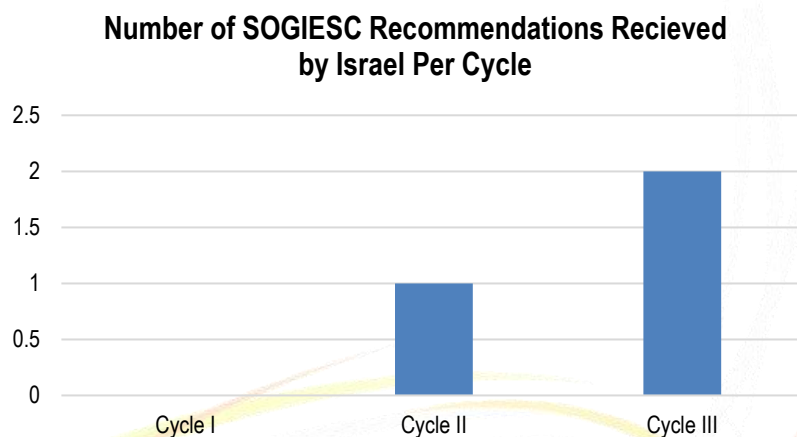
**c) The following recommendations have been examined by Israel and enjoy the support of Israel**

- **Chile:** Continue to strengthen measures to combat violence and discrimination against LGBTI persons (6.64).
- **Greece:** Continue its efforts to safeguard LGBTI rights, following notable legislative and administrative developments (6.65).

**E. Recommendations for Cycle II (2013)**

Recommending State	Recommendation	Response
Greece	Continue all efforts to eliminate discrimination based on sexual orientation and gender identity	Accepted

## F. Graphic Comparison Between Cycles (1—3)



## G. [Video of Israel's UPR Working Group Session](#)

### H. SOGIESC Mentions During Israel's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **World Jewish Congress:** World Jewish Congress drew attention to the fact that 250,000 people took part in Tel Aviv's annual Pride march. It also commended Israel for accepting recommendations related to the safeguarding of LGBT rights.



## LIECHTENSTEIN UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 24 JANUARY 2018, 09:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 26 JANUARY 2018, 17:00—18:00

*During the 29<sup>th</sup> UPR Working Group Sessions, Liechtenstein received 1 SOGIESC recommendations. It accepted 1 recommendation.*

### A. SOGIESC Information

#### National Report

73. With entry into force of the Law on Registered Partnerships of Same-Sex Couples (Registered Partnership Act, Part G, LGBl. 2011 No. 350) in 2011, an important contribution was made to overcoming discrimination and social taboos regarding homosexuality. Since then, same-sex couples in Liechtenstein have been able to have their partnerships registered. Registration forms the legal basis for a life partnership with reciprocal rights and duties. Registered couples are largely deemed equivalent to married couples. Adoption of children and the use of reproductive medical procedures are not permissible for persons living in a registered partnership, however.

74. In September 2016, Parliament adopted a reform of the law governing the names of registered partners. With the change to the law, the law governing the names of registered partners was placed on an equal footing with the law governing the names of married couples. Registered partners now have the option of either retaining their own surname – as before – or of declaring to the Civil Registry Office when registering the partnership which of their surnames they wish to use as a shared name. In the latter case, the partner whose name is not used as the shared name may, by declaration to the Civil Registry Office, add their previous surname before or after the shared name, thus creating a double surname. The reform entered into force on 1 January 2017.

#### Compilation of UN Information

N/A

#### Summary of Stakeholder's Information

N/A

### B. SOGIESC Advanced Questions for Liechtenstein

N/A

### C. Liechtenstein's Working Group Session

- **Intervention Made by Liechtenstein After 37 Interventions:** Australia and another country as well mentioned the LGBT rights in Liechtenstein. This is something we attach very high importance to. As the Minister of Justice in the years 2011 and 12, I introduced the possibility of registered partnership in Liechtenstein and we are working on even more equality in this area.

In relation to LGBT rights, last year we as well introduced the law that same-sex partnerships are allowed to have the same last name on official papers as well.

Then to the theme of sexual orientation. The Law on Registered Partnerships for same-sex couples was adopted in a referendum in 2011 with almost 70% approval. Since then, 33 couples entered into a registered same-sex partnership. They have the same rights as married heterosexual couples in many areas, including inheritance law, social insurance law, occupational law, the law governing foreigners and naturalization, and tax law. Since 1 January 2017, registered same-sex partners are also allowed to have a common name which equal to the family name of married couples.

The Labour Law expressively provides for protection of the personality of the employee. The term 'personality' is defined broadly, including gender, race, nationality, sexual orientation, and other characteristics.

In Liechtenstein, in 2016, there was an amendment to Paragraph 283 of the Criminal Code that's called Discrimination. This entered into force introducing a comprehensive prohibition against discrimination. While previously only racial discrimination constituted a criminal offence, public incitement to hatred or discrimination on the basis of language, nationality, ethnicity, religion, ideology, gender, disability, age or sexual orientation is now also a criminal offence.

#### D. Recommendations for Cycle III (2018)

##### a) Remarks of States

- **Australia:** While noting discrimination based on sexual orientation is prohibited in Liechtenstein.
- **Brazil:** We commend Liechtenstein for the ratification of the Optional Protocols to the Convention on the Rights of the Child and also for its initiatives regarding the protection of vulnerable groups, such as LGBTI individuals.
- **Chile:** We congratulate Liechtenstein for the ratification of international instruments in the field of human rights since 2013, as well as the adoption of legal amendments that have allowed a broad definition of discrimination for reasons of language, nationality, ethnic origin, religion, ideology, gender, disability, age or sexual orientation.
- **Ecuador:** We congratulate Liechtenstein for the progress they have made in human rights, particularly the amendment of Article 283 of the Criminal Code dated April 2016 which included a broad prohibition of discrimination based on language, nationality, ethnic origin, ideology, gender, disability, age or sexual orientation.
- **Iceland:** Iceland welcomes Liechtenstein's engagement in promoting and protecting human rights and commends developments regarding the human rights of LGBTI persons.
- **Mexico:** Similarly, we welcome with satisfaction the entry into force of the amendment to Article 283 of the Criminal Code which included as punishable offences incitement to hatred and discrimination on the basis of language, nationality, ethnic origin, religion, ideology, gender, disability, age or sexual orientation.
- **United States:** We note, however, continued reports that juvenile detainees may sometimes be subject to police questioning without a lawyer present, asylum seekers find difficulty finding legal representation, non-citizens lack sufficient access to public services, women experience employment and pay discrimination, religious and ethnic groups and LGBTI persons experience instances of discriminations, and some public buildings and schools remain inaccessible to persons with disabilities.

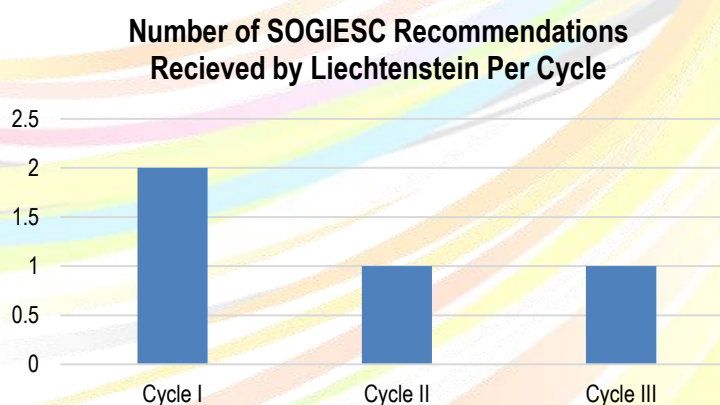
b) The following recommendations have been examined by Liechtenstein and have been accepted by Liechtenstein

- **Australia:** Continue its efforts to combat instances of discrimination against LGBTI persons and improve social inclusion (6.43).

#### E. Recommendations for Cycle II (2013)

Recommending State	Recommendation	Response
Spain	Take the necessary measures to raise awareness among the population against homophobia, and in general, in favour of the non-discrimination on the basis of sexual orientation, undertaking global public awareness campaigns	Accepted

#### F. Graphic Comparison Between Cycles (1—3)



#### G. [Video of Liechtenstein's UPR Working Group Session](#)

#### H. SOGIESC Mentions During Liechtenstein's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

This section will be completed during the 38<sup>th</sup> Session of the Human Rights Council in June 2018.

## LUXEMBOURG UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 18 JANUARY 2018, 14:30—18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 23 JANUARY 2018, 16:30—18:00

*During the 29<sup>th</sup> UPR Working Group Sessions, Luxembourg received 1 SOGIESC recommendations. It accepted 1 recommendation.*

### A. SOGIESC Information

#### National Report

16. A law on same-sex marriage was approved on 18 June 2014 by the Chamber of Deputies. That law was promulgated on 17 July 2014 and entered into force on 1 January 2015. The first same-sex marriage took place on 1 January 2015. A law was adopted on 23 May 2016 on the recognition of marriages in the Grand Duchy of Luxembourg which amended the Civil Code in order to establish certainty and predictability with regard to the recognition in Luxembourg of same-sex marriages entered into outside the country and of validated adoptions of children by parents of the same sex concluded outside the country prior to the entry into force of the law of 4 July 2014 that amended the existing law on marriage.

36. The 2015-2018 National Action Plan for Equality between Women and Men is being incorporated into the workplans of the relevant ministerial departments. In addition, a national action plan is being developed for the promotion and protection of the rights of lesbian, gay, bisexual, transgender and intersex persons in close consultation with civil society and other stakeholders.

48. The main changes to be introduced by Bill No. 7167 are the following:

- Adding the concept of gender identity to the list of prohibited grounds for discrimination.

#### Compilation of UN Information

N/A

#### Summary of Stakeholder's Information

9. The Advisory Commission congratulated the Government on the drafting of a bill to allow transgender persons to change their names to match their gender, and on the adoption of a law permitting same-sex marriage and adoption by same-sex couples.

27. CoE-ECRI<sup>8</sup> strongly recommended that Luxembourg expressly provide that racist or homophobic/transphobic motivation constitutes an aggravating circumstance for any ordinary offence, explicitly make public insults, public defamation and racist and homophobic/transphobic threats a criminal offence and include the grounds of language and gender identity in the provisions of the Penal Code aimed at combating racism and homophobia/transphobia.

<sup>8</sup> Council of Europe – European Commission against Racism and Intolerance.

31. CoE-ECRI also recommended that Luxembourg implement measures to promote understanding and respect for lesbian, gay, bisexual and transgender persons, especially in schools. They should also provide all pupils and students with the information, protection and support necessary to enable them to live in accordance with their sexual orientation and gender identity.

## **B. SOGIESC Advanced Questions for Luxembourg**

N/A

## **C. Luxembourg's Working Group Session**

- **Opening Remarks:** In May 2017, the Government submitted a Bill Number 71/46 to specifically strengthen the rights of transgender persons and intersex persons through creating an administrative procedure which allows for the modification of the mention of sex in the registry or documents in public records and also of first names as these are not appropriate for the gender which is on the birth certificate. The draft law aims to replace the current judicial procedure which applies by an administrative procedure which is rapid and easily accessible in the interests of the persons concerned. Also, an Inter-Ministerial Group was mandated to look at problems that LGBT persons and intersex persons encounter. In this context, we shall also examine the possible introduction of a third option for the indication of sex in public records. Moreover, in September 2017, the Government submitted a Bill Number 71/67 proposing the integration of the concept of gender identity as one of the grounds for unlawful discrimination listed in Article 454 of the Criminal Code. This will allow us to combat much better any sexual inequality or gender-based violence, in particular that based on gender stereotypes. Integration of this concept is fundamental to bring an end to discrimination or violence that lesbian, homosexual, bisexual, transgender and intersex persons are victims of.

## **D. Recommendations for Cycle III (2018)**

### **a) Remarks of States**

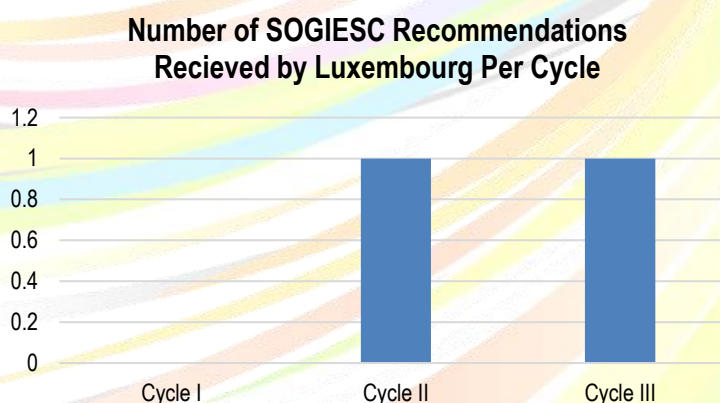
- **Australia:** Australia acknowledges Luxembourg's overall strong record on human rights and welcomes steps Luxembourg has taken to improve human rights protections, including its commitment to gender equality and LGBTI rights. (...) Australia commends Luxembourg for legalising same-sex marriage.
- **France:** France congratulates Luxembourg on the implementation of the recommendations made in 2013 in the area of human rights. We especially welcome the ratification of the Optional Protocol to the Convention on the Rights of the Child, of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the establishment of an Inter-Ministerial Human Rights Committee in 2015 and and efforts to enhance the rights of LGBTI persons.
- **Slovenia:** We warmly welcome information on positive developments such as ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the adoption of the law on the same-sex marriage
- **Switzerland:** Switzerland, a member country of the troika, welcomes the efforts made by Luxembourg in various areas. As an example, we can refer to measures to strengthen gender equality, the political and economic participation of women, as well as the rights of transgender and intersex persons, and measures to prevent domestic violence.

- **Uruguay:** Uruguay congratulates Luxembourg for its constant efforts to promote and protect human rights and fundamental freedoms for all. In particular, we highlight the legislative reforms to protect the rights of LGBTI persons.
- b) **The following recommendations have been examined by Luxembourg and have been accepted by Luxembourg**
- **Australia:** Continue to progress legal protections for LGBTI persons by adopting the May 2017 Draft Law on the modification of sex and names, and amendment of the Civil Code, and increasing publicly available information on rights for intersex persons (6.57).

**E. Recommendations for Cycle II (2013)**

Recommending State	Recommendation	Response
Netherlands	Adopt and comprehensively implement the draft law on the marriage among same-sex persons	Accepted

**F. Graphic Comparison Between Cycles (1—3)**



**G. [Video of Luxembourg’s UPR Working Group Session](#)**

**H. SOGIESC Mentions During Luxembourg’s UPR Outcome (Item 6 of the Agenda of the Human Rights Council)**

N/A

**MALI**  
**UPR SOGIESC RECOMMENDATIONS**

**DATE AND TIME OF THE REVIEW: 16 JANUARY 2018, 14:30—18:00**  
**DATE AND TIME OF THE ADOPTION OF THE REPORT: 19 JANUARY 2018, 15:00—18:00**

*During the 29<sup>th</sup> UPR Working Group Sessions, Mali received 0 SOGIESC recommendations.*

**A. SOGIESC Information**

**National Report**

N/A

**Compilation of UN Information**

N/A

**Summary of Stakeholder's Information**

N/A

**B. SOGIESC Advanced Questions for Mali**

N/A

**C. Mali's Working Group Session**

N/A

**D. Recommendations for Cycle III (2018)**

N/A

**E. Recommendations for Cycle II (2013)**

N/A

**F. Graphic Comparison Between Cycles (1—3)**

N/A

**G. Video of Mali's UPR Working Group Session**

**H. SOGIESC Mentions During Mali's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)**

N/A





## MONTENEGRO UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 22 JANUARY 2018, 09:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 25 JANUARY 2018, 16:30—18:00

*During the 29<sup>th</sup> UPR Working Group Sessions, Montenegro received 6 SOGIESC recommendations. It accepted all 6 recommendations.*

### A. SOGIESC Information

#### National Report

48. Media campaigns on non-discrimination and the affirmation of anti-discriminatory behavior in order to raise awareness and to create an environment tolerant towards persons with disabilities, LGBT, Roma and other most often discriminated groups, are continuously being realized. An annual campaign “16 days of activism against gender-based violence”, as well as campaigns and education in towns in which Roma population lives, focusing on violence against women, domestic violence and early forced marriages of RE (Roma and Egyptians) girls were conducted.

50. The degree of discrimination in society is monitored through continuous researches. Based on the results, the policies for protecting against discrimination of the most vulnerable groups are being created. The 2015 research has shown a high degree of discrimination against persons with disabilities, LGBT population, Roma, women, minorities, persons living with HIV/AIDS and persons addicted to psychoactive substances. In 2016 special research was conducted related to the discrimination against persons with disabilities (in cooperation with UNDP). The 2017 research of citizens’ perception on discrimination continuously shows a higher degree of anti-discriminatory awareness.

128. The amendments of the Anti-Discrimination Law from 2014 and 2017 emphasized a form of discrimination based on sexual orientation and gender identity and introduced a new basis of discrimination, gender change and inter-sexual characteristics. Penalty policies become much stricter, thus strengthening protection.

129. The amended Criminal Code from 2013 in Article 443 (racial hatred or racial discrimination) prohibited promotion of racial hatred or intolerance and encouragement of racial or other discrimination based on gender, disability, sexual orientation, gender identity or any other personal characteristics. The amended Criminal Code improved the legal protection of the LGBT persons, thus committing a hate crime based on sexual orientation or gender identity will be taken as aggravating circumstance for determining the punishment.

130. The Strategy for improving the quality of life of LGBT, with annual APs, comprises a set of measures in the area of human rights of LGBT, education, culture and security, law enforcement, health care protection, media, sport, economic growth, tourism and international politics. In the process of preparing the Strategy’s AP, a consultative process with relevant NGOs and state institutions was undertaken upon which the measures for improving the legal and social status of the LGBT are created. NGOs have been consulted during the conceptual design and defining the visual identity of all realized media campaigns.

131. In 2017 drafting a Law on registered partnership to enable significantly greater volume of rights for LGBT couples started. There are continuous activities on strengthening capacities and promoting anti-discriminatory behaviour through carrying out seminars/workshops and trainings for civil servants, representatives of the judicial bodies, local authorities, police, inspection services and others in charge of providing protection against discrimination. The educational courses for media representatives on sensible approach in reporting on the LGBT population, and on the necessity of breaking the gender prejudices and stereotypes in all public media were also realized. Educational courses were also organized for the representatives of national institutions, media, NGOs and institutions of the Protector in order to regulate legal issues of the same sex communities. Media campaigns on non-discrimination and affirmation of anti-discriminatory behaviour are being continuously realized. With the support of the UNDP, a safety informative brochure for LGBT population and police officers was published aiming to better protect the LGBT rights.

132. The amended Anti-Discrimination Law introduced the obligations of: the police, state prosecution, courts, misdemeanor institutions and inspection institutions to keep a special record of all the cases of reported discrimination and to submit it to the Protector. Compared to the cases of violence against LGBT persons, MH&MR gathers information each year on all cases of reported violence or discrimination and prepares a report.

133. The institution of the Protector secures a qualitative and continuous cooperation with CSOs which promote and protect the rights of the LGBT population. As a result, an educational course on the issue of hate speech suppression was organized.

135. The future Strategy for improving the quality of life of LGBT 2019-2024, focusing on the outing process of LGBT persons and the key role of the family in it, will promote and contribute to the implementation of the Law on Registered Partnerships to be adopted by the end of 2018.

### Compilation of UN Information

11. While noting various legislative and administrative measures that had been adopted to protect the rights of lesbian, gay, bisexual and transgender persons, the Committee against Torture, the Human Rights Committee and the Committee on the Elimination of Discrimination against Women remained concerned at continuing reports of violence and discrimination against such persons, and recommended that Montenegro intensify its efforts to combat stereotypes and prejudice against them. The Committee on the Elimination of Discrimination against Women was concerned about the legal requirement for transgender persons to undergo a surgical intervention in order to obtain legal recognition, and recommended removing such a requirement.

18. The Committee against Torture and the Human Rights Committee recommended that Montenegro ensure that all acts of violence against lesbian, gay, bisexual and transgender persons were promptly, effectively and impartially investigated and prosecuted, that perpetrators were brought to justice and that victims were provided with redress.

30. The Special Rapporteur on freedom of expression noted that attempts by the lesbian, gay, bisexual and transgender community to conduct peaceful demonstrations had met with violence, and recommended that Montenegro fully implement national norms regarding the prohibition of discrimination on all grounds and investigate acts of aggression against the lesbian, gay, bisexual and transgender community.

### Summary of Stakeholder's Information

6. The Ombudsman stated that Montenegro's legislative framework was largely in compliance with anti-discrimination standards contained in international treaties ratified by Montenegro and EU directives. CoE-Commissioner noted that the 2014 Law on Amendments of the Law on Prohibition of Discrimination introduced a new concept of direct and indirect discrimination and a definition of hate speech in line with European standards. He also observed that a legislative amendment of the Criminal Code of Montenegro in 2013 provided that the courts would consider it an aggravating circumstance if a criminal offence was committed out of hatred on the grounds of race, religion, national or ethnic origin, gender, sexual orientation or gender identity. The Ombudsman considered crucial to similarly amend misdemeanour provisions and to remove existing deficiencies in relation to the detection and prosecution of hate speech and hate crimes.

7. While recognising a number of legislative improvements, AI noted a number of measures that threatened Montenegro's already weak anti-discrimination architecture, such as the abolishment of the Anti-Discrimination Council, the dismissal of the Prime Minister's human rights adviser, and a reported decline in support for measures to guarantee LGBTI rights.

10. The Ombudsman reported that the LGBTIQ population was still exposed to the risk of various forms of violation of their rights, including violence. CoE noted that the CoE-Commissioner, while commending Montenegro for its measures to improve human rights of LGBTI persons, urged the authorities to continue their efforts to combat homophobia and transphobia, including through systematic awareness-raising and educational activities, and called on them to effectively investigate all reported cases of violence against LGBTI persons.

20. CoE reported that the CoE-Commissioner called on the authorities to effectively investigate all reported cases of violence against LGBTI persons and ensure accountability before the law.

## **B. SOGIESC Advanced Questions for Montenegro**

- **Brazil:** What measures has your country taken to protect and promote the rights of LGBT persons?
- **Czechia:** What measures does the Government take to combat homophobia and to effectively investigate all reported cases of violence against persons based on their sexual orientation or identity?

## **C. Montenegro's Working Group Session**

- **Opening remarks:** Since the last review process, satisfactory results have been achieved in the field of judicial reform and fight against corruption, important legal reforms have been carried out regarding the establishment of a comprehensive anti-discrimination framework, through further empowerment of women and girls, fight against trafficking in human beings, improvement of the position of persons with disabilities, rights of children, creation of a more tolerant environment for diversity, especially with regard to the members of the LGBTI community.

(...) At the international level, Montenegro provides full support to the work of the UN High Commissioner for Human Rights and achieves full cooperation with the Human Rights Council, the UPR mechanism, contracting authorities and special procedure mandate holders. In the period between the two cycles, Montenegro was a member of the Human Rights Council 2013-2015. Through continuous cooperation with the Council and its special procedures, as well as Member States, we contribute to the consideration of human rights issues and to timely response

to the situations of their violation. We pay special attention to strengthening the position and role of women in society and preventing violence against them, as well as all vulnerable categories, primarily children, people with disabilities, LGBTI persons and the elderly. These long-term priorities, as well as the commitment to improving the work of the Human Rights Council, resulted in the candidacy of Montenegro for Council membership 2022-2024.

(...) With regard to fighting homophobia and effectively investigating all reported cases of violence based on sexual orientation or gender identity – questions posed by Czech Republic and Brazil, the implementation of the Strategy for the improvement of the quality of life of LGBT persons involves a multisectoral approach and deals with all issues of relevance to advancement and respect for rights of LGBTI people in Montenegro. In the security sector, a network of police contact points in all security centers has been established, as well as a special "Trust Team" of the LGBTI community and the Police Directorate, as a mechanism for strengthening mutual trust and improving the safety of LGBTI people. The cases in which LGBTI people are an injured party are continuously monitored by police, judiciary and prosecutors in order to resolve them on time and in a quality way. In legislative terms, the Criminal Law and the Law on the Prohibition of Discrimination have been improved, and the work on the drafting of the Law on Registered Partnership has been initiated. Representatives of all NGOs involved in this issue are involved in the work on this Law. Adoption of the Law is planned by the end of the year.

- **Intervention Made by Montenegro After 51 Interventions:** When it comes to protection of LGBTI population, Montenegro made big steps in this field. In the beginning of 2010, we started those activities. We can say now that we have already reached the position where we can adopt the Law on Registered Partnership. This was all initiated by one very important Strategy, and that is the Strategy for 2013 – 2018 to improve the quality of life for LGBTI. The Strategy has been implemented very well and it's already showed the need to amend legislation and to improve services to have them involved in society to the full. We will adopt a new 5 year Strategy dealing with those issues, and it will cover 2019 – 2023. We are going to have the Law adopted this year and as such broaden the scope of rights of LGBTI population who want to integrate with society.

Apart from that, I want to say that when it comes to security of LGBTI population, I want to say that all police centres have liaison officers and police officers who can be contacted with those reports and problems. We have 'Trust Teams' where the police representatives, NGOs and community representatives work together and who deeply work with those issues. We continuously monitor all the cases of attacks and assaults on LGBTIs and all the cases where they are injured parties so that we could monitor how the institutions work. And we have the Ombudsman's Office that collects information about that and reports about that in the Parliament. So I can say that this moment, our Ministry works in full capacity of those issues and we have a lot ahead of us to develop a new Strategy and draft this Law.

#### D. Recommendations for Cycle III (2018)

##### a) Remarks of States

- **Argentina:** Argentina congratulates the country for setting up the Strategy to improve the quality of life of lesbian, gay, bisexual and transgender persons, for the action plan to achieve gender equality, and for the strategy for the integration of persons with disabilities in its search to guarantee the human rights of the most vulnerable groups.

- **Australia:** Australia commends Montenegro on its efforts to promote the rights of LGBTI people, including through the adoption of an *Action Plan for Achieving Gender Equality 2017-2021*; however, we are concerned by reports that the implementation of protective laws is inconsistent, resulting in discrimination and violence against LGBTI people.
- **Canada:** Canada welcomes the positive steps taken by Montenegro, including upholding the right to free assembly and expression by permitting Pride Marches in Podgorica and by addressing the issue of discrimination against LGBTI community members.
- **Germany:** Germany welcomes the delegation of Montenegro to the UPR. We commend Montenegro for the improvements it has achieved since the last UPR in 2013. These include the extension of the mandate of the Protector of Human Rights and Freedoms in December 2016 as well as improvements of the situation of LGBTI persons. Moreover, we welcome Montenegro's collaboration with civil society in the preparation of this UPR review. However, there still remains significant potential for improvement of the situation of the LGBTI community as well as for the protection of the freedom of opinion and of the press in particular. Moreover, the phenomenon of selective abortions of female fetuses needs to be addressed in an effective manner.
- **Honduras:** We commend the ratification by Montenegro of the Optional Protocol to the Convention on the Rights of the Child, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Convention to Reduce Cases of Statelessness, as well as such as the Council of Europe Convention on the Prevention and Combat of Violence against Women and Domestic Violence, as well as the approval of various legislative and administrative measures to protect the rights of lesbian, gay, bisexual and transgender people.
- **Ireland:** We welcome Montenegro's introduction of legislative and administrative measures aimed at protecting the rights of LGBTI individuals. We call on Montenegro to ensure any acts of violence against the community are promptly investigated and to promote awareness-raising initiatives and educational activities to combat discrimination.
- **United States:** The United States is also discouraged by the continued discrimination and violence against members of minority groups, especially Roma and members of the LGBTI community.

**b) The following recommendations have been examined by Montenegro and enjoy the support and are considered already implemented or in the process of implementation by Montenegro**

- **Czechia:** Fully implement adopted legal measures against discrimination and effectively address reported cases of violence against persons based on their sexual orientation and gender identity (7.17).
- **Germany:** Work out, in a timely fashion, a concrete draft law for the legalization of same sex partnerships which can be passed expeditiously by parliament (7.83).
- **Honduras:** Redouble its efforts, by assigning human and financial resources, to effectively implement the adopted measures to protect the rights of lesbian, gay, bisexual and transgender persons (7.18).
- **Iceland:** Further strengthen efforts to protect the rights of LGBTI persons effectively and investigate and prosecute cases of violence and discrimination against LGBTI persons (7.16).
- **Mexico:** Strengthen institutions to combat discrimination and violence based on sex, sexual orientation or gender identity (7.19).

**c) The following recommendations have been examined by Montenegro and enjoy the support and will be implemented by Montenegro**

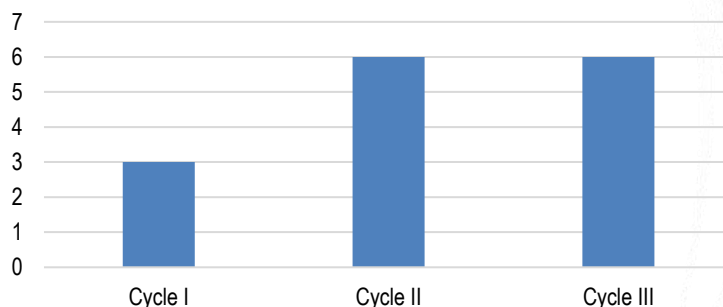
- **Portugal:** Reform the existing legal provision that requires transgender persons to undergo a surgical intervention in order to obtain legal recognition (8.6).

### E. Recommendations for Cycle II (2013)

Recommending State	Recommendation	Response
Argentina	Continue the efforts aimed at eliminating all discriminatory treatment based on sexual orientation or gender identity	Accepted
Australia	Take additional concrete steps to combat societal discrimination on the basis of race, sexual orientation, disability or gender identification	Accepted
Belgium	Consider amending the Criminal Code so that hate crimes against LGBT persons are considered serious criminal offences or at least aggravating circumstances	Accepted
Czechia	Fully implement adopted legal measures against discrimination based on sexual orientation and gender identity	Accepted
Netherlands	Take measures necessary to protect the rights of LGBT persons effectively and investigate and prosecute alleged cases of violence and discrimination against LGBT persons	Accepted
Norway	Further strengthen efforts to implement the principles contained in the Law on Anti-Discrimination, including by combatting discrimination against members of the LGBT community	Accepted
Spain	Establish effective mechanisms of dialogue with human rights defenders in the field of sexual minorities	Accepted

### F. Graphic Comparison Between Cycles (1—3)

**Number of SOGIESC Recommendations Received by Montenegro Per Cycle**



### G. Video of Montenegro's UPR Working Group Session

#### **H. SOGIESC Mentions During Montenegro's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)**

- **Montenegro (Opening Remarks):** In addition to the efficiency of the judiciary and the rule of law, special attention will be paid to the protection of rights of vulnerable groups, primarily children, persons with disabilities, minorities, the elderly and LGBTI population. In the area of protection of the rights of the child, significant progress has been made, and as noted in the latest Report to the Committee on the Rights of the Child, the emphasis will be on further efficient implementation of a high-quality legislative and strategic framework. Montenegro continuously implements the policy of protection and promotion of the LGBTI community. The procedure for the adoption of the Law on Same-Sex Life Partnership is underway. Suggestions and comments are being summarized, following the public consultations process. There is a consensus with the non-governmental sector on future legal solutions that will allow the exercise of rights in case of same-sex partnerships. By passing this law, Montenegro will join countries that have introduced high standards of protection for this population.
- **Honduras:** Our State wishes to express its satisfaction and support provided by Montenegro to achieve the recommendations made by Honduras on redoubling efforts to allocate human and financial resources for the effective application of measures adopted to protect the rights of lesbian, gay, bisexual and transgender persons.

## ROMANIA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 16 JANUARY 2018, 09:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 19 JANUARY 2018, 15:00—18:00

*During the 29<sup>th</sup> UPR Working Group Sessions, Romania received 15 SOGIESC recommendations. It accepted 13 recommendations and partially noted 2 recommendations.*

### A. SOGIESC Information

#### National Report

68. Romania's legal framework ensures the respect of human rights for all persons, without discrimination of any form, as provided by the Romanian Constitution that also mentions the respect and protection of private life. The antidiscrimination law in Romania (Ordinance no. 137/ 31 August 2000, Art. 2.1) is among the most extensive and inclusive, defining discrimination in a very large sense, including discrimination based on sex and sexual orientation. Since 2000 the law includes provisions on combating incitement to hatred and fighting all discrimination forms. Civil society organizations promoting the respect of the rights of LGBTI persons are active in Romania for watchdog, support and rights promotion activities for the LGBTI community in Romania/Bucharest especially. Yearly, Bucharest hosts the annual festival dedicated to support the rights of the LGBTI persons – Pride Week, including a March for Diversity – Pride parade.

69. In Romania, the persons having HIV or AIDS are legally perceived as persons with disabilities. Thus, they benefit from all protective measures specifically aimed at this mentioned group. HIV-positive pregnant women are monitored in nine Regional HIV Infection Surveillance Centers where, after HIV infection has been confirmed, any person, regardless of age, gender, nationality, sexual orientation, is recorded, clinically and biologically monitored and provided specific antiretroviral therapy immediately after diagnosis. The management of HIV-positive child and adolescent patients complies with the 2013-2014 Guidelines for ARV Therapy, containing a separate chapter for this age group. Between May 2014 and August 2016, 'Prof. Dr. Matei Balș National Institute of Infectious Diseases from Bucharest, as Project Promoter, under the coordination of the Ministry of Health as Program Operator, implemented the project 'Improving HIV/AIDS and Hepatitis B and C Prevention and Control in Romania', as part of the 2009-2014 Norwegian Financial Mechanism.

#### Compilation of UN Information

11. The Committee on the Rights of the Child was concerned that Roma children, children with disabilities, asylum-seeking or refugee children, lesbian, gay, bisexual, transgender and intersex children and children living in remote rural areas continued to face discrimination with regard to access to education, health care and employment, and to their standard of living.

#### Summary of Stakeholder's Information



7. Save the Children Romania (SCR) stated that Roma children, children from poor families, those living in rural areas, children with disabilities or those who had identified as lesbian, gay, bisexual and transgender (LGBT) persons continued to be discriminated in sectors such as education or health care.

8. Equality and Human Rights Action Centre (ACTEDO) noted that Roma and LGBT+ persons had reportedly been target of hate speech.

13. EU-FRA stated that the 2011 Civil Code prohibited same-sex partnership and marriage and prohibited the recognition of such partnership and marriages concluded in other countries. Despite this, ACCEP and ACTEDO reported on an initiative to hold a referendum in order to amend the Constitution to specify the legal definition of family as a marriage between a man and women. ACTEDO noted a high level of intolerance displayed towards LGBT+ persons by many public figures during the referendum campaign.

14. ACCEPT stated that gender identity was not explicitly included in the list of criteria of non-discrimination and that the rights of transgender people remained largely ignored by the authorities. There were no official medical protocols and training for professionals on providing healthcare services for transgender persons and very few psychologists and medical professionals were available to provide such services. Medical interventions were not covered by the public healthcare insurance. The legislation on name change obliged transgender persons to go through court procedures. In the absence of clear regulations and laws, the courts issued contradictory interpretation of the law on aspects of gender-affirming surgery.

## B. SOGIESC Advanced Questions for Romania

- **Belgium:** What is the timeline for the adoption of the new National Anti-Discrimination Strategy and what measures does it foresee with regards to LGBTI?
- **Germany:** Which legal measures does Romania plan to implement in order to improve the situation of transsexuals, especially regarding medical care and change of gender or name in legal documents?
- **Germany:** What is the position of the Romanian Government regarding the planned referendum which wants to alter the definition of family within the Romanian Constitution and thus exclude children and their single parents as well as same-sex couples from the fundamental right protection for families?
- **United Kingdom:** What steps is the Romanian government taking to ensure that transgender people have access to timely procedures for legal gender recognition?

## C. Romania's Working Group Session

- **Intervention Made by Romania After 41 Interventions:** Of course, we do not have a prefect system, it can and should be improved upon. We admit to a series of challenges regarding the insurance of the non-discrimination principle, for a number of social categories, such as ethnic minorities, here we must mention the difficulties ensuring fair and equal treatment to members of the Roma ethnicity, or the challenges in the protection of disabled persons rights', or those of the LGBT sexual minority community and even the principle of equality between women and men.
- **Closing Remarks:** Another goal of the General Prosecutor Office is to take more effective steps for countering hate crimes. In this line, I would like to mention that from January 1 2018, based on an internal order, the General Prosecutor Office is going to collect disaggregated data based on discriminatory grounds or motivations such as sexual orientation, gender, race or disability.

## D. Recommendations for Cycle III (2018)

### a) Remarks of States

- **Argentina:** Argentina pays particular attention to the section of the report concerning measures regarding vulnerable groups, children and LGBTI individuals, as well as hate crimes.
- **Australia:** Australia commends Romania on its efforts to combat discrimination and protect vulnerable groups, particularly the LGBTI people, through the National Council for Combating Discrimination (NCCD) national strategy on equality and non-discrimination.
- **Germany:** At the same time, Germany remains concerned about the human rights situation of persons belonging to vulnerable groups, including Roma and LGBTI.
- **United Kingdom:** We encourage more action on the rights of LGBT persons, including state procedures for legal gender recognition for transgender people, and provision of adequate health care for people infected with HIV/AIDS and TB.

### b) The following recommendations have been examined by Romania and have been accepted by Romania

- **Argentina:** Take urgent measures to investigate and sanction acts of hatred such as discrimination against migrants, minorities and LGBTI persons, in particular those acts made by public officials (6.52).
- **Australia:** Continue efforts to combat discrimination and protect vulnerable groups, particularly LGBTI people, and take steps to fully implement, monitor and evaluate the national strategy on equality and non-discrimination (6.62).
- **Austria:** Ensure that acts of discrimination and violence against LGBT persons and persons belonging to other vulnerable groups are properly investigated and perpetrators held accountable (6.68).
- **Belgium:** Increase the organization of awareness raising campaigns to enhance the understanding of the general population of the rights of LGBTI persons, with particular attention to raising awareness among students (6.65).
- **Canada:** Develop and implement programmes to counter discrimination against LGBTI persons, including public awareness campaigns and specialized training for law enforcement officials (6.64).
- **Chile:** Continue working to eradicate all forms of stigmatisation or discrimination based on sexual orientation or gender identity (6.60).
- **Czechia:** Launch an awareness-raising programme for the public against negative prejudices and discrimination against persons based on their sexual orientation or gender identity and against persons with HIV/AIDS (6.70).
- **Greece:** Promote more tolerance towards persons belonging to the LGBTI community (6.69).
- **Honduras:** Review its national antidiscrimination legislation and policies so as to incorporate all non-discrimination criteria, including gender identity and sexual orientation (6.42).
- **Italy:** Intensify efforts to combat all forms of discrimination, especially against persons with disabilities and LGBTI persons, also by promoting a culture of equality and by removing obstacles to the enjoyment of their rights (6.61).
- **Spain:** Invest in more training and awareness raising initiatives for police officers, judges and prosecutors to guarantee effective investigations of crimes against the LGBTI community (6.63).
- **United States:** Collect and publish data on hate crimes that include motivation, for example whether the crime is motivated by a bias against the victim's race, religion, sexual orientation or gender identity, or disability status (6.76).

- **Uruguay:** Adopt a law or a code of conduct, prohibiting and criminalizing incitement to hatred, which would apply to political figures and Parliamentarians making racist, homophobic and xenophobic speeches or of any other intolerant nature (6.71).

**c) The following recommendations have been examined by Romania and have been partially noted by Romania**

- **Ireland:** Take active measures to prevent discrimination against the LGBTI community for example by including gender identity in the list of criteria of non-discrimination and making provision in law for same-sex civil partnership and marriage (6.66).
- **Sweden:** Introduce a civil legal partnership between same-sex couples, and refrain from a referendum on constitutional changes prohibiting same-sex couples to marry that would likely increase negative sentiments against LGBTI people (6.67).

**E. SOGIESC Recommendations Shared by HRDs During ILGA’s UPR Advocacy Week in Geneva**

**Accept and ECPI**

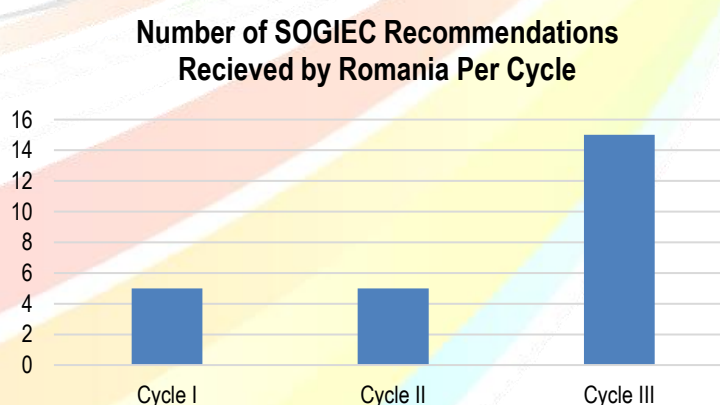
- To take the necessary measures to ensure that the systematic collection and publication of statistical data on hate crimes is disaggregated, based on the discriminatory ground/motivation of the perpetrators, including sexual orientation and gender identity.
- Adopt, as soon as possible, an Action Plan to ensure that extreme forms of discrimination and hate crimes against LGBTI persons as well as other vulnerable categories are properly investigated.
- Ensure that systematic training is provided to police and the judiciary, regarding the identification, investigation of hate crimes and treatment of victims.
- To adopt in 2018 the National Strategy on Preventing and Combatting Discrimination, and subsequent annual action plans for its implementation.
- To adopt medical protocols and implement training for professionals on providing healthcare services for transgender persons who access these services.
- To amend legislation in order to ensure a clear, predictable administrative procedure for legal gender recognition and access to specialized medical services covered by health insurance.
- To ensure adequate funding, cooperation and support for initiatives and awareness-raising programmes on sexual orientation and gender identity.
- To adopt and operationalize the National Strategy on HIV/AIDS and the National Strategy on Sexual and Reproductive Health and Rights.
- To adopt comprehensive age-appropriate sexuality education in all schools, ensuring that topics such as sexual orientation, gender norms, gender identity are addressed in an accurate and non-discriminatory way.

**F. Recommendations for Cycle II (2013)**

Recommending State	Recommendation	Response
Australia	Take practical action to ensure that existing anti-discrimination legislation is properly enforced so as to combat discrimination	Accepted

	against its citizens, both systemic and overt, based on in particular, ethnicity, sexual orientation and gender identity, and HIV status	
Austria	Ensure that acts of discrimination against LGBT persons and persons belonging to other vulnerable groups are properly investigated and perpetrators held accountable	Accepted
Belgium	Ensure an adequate publicity and carry out awareness campaigns in order to increase the understanding among the population on the rights of LGBT persons	Accepted
Finland	Further intensify training for State and local authorities and the public at large on international human rights standards, particularly those in relation to sexual orientation and gender identity	Accepted
Netherlands	Adopt appropriate measures to counter discrimination of LGBT people and to develop policies in order to integrate existing legislation against discrimination at various societal levels in Romania	Accepted

### G. Graphic Comparison Between Cycles (1—3)



### H. [Video of Romania's UPR Working Group Session](#)

## I. SOGIESC Mentions During Romania's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **Romania (Opening Remarks):** Regarding recommendation number 68 on ensuring that acts of discrimination and violence against LGBTI and other vulnerable groups are properly investigated and perpetrators held accountable, I'd like to add that, according to the Criminal Procedural Code, victims of hate crimes and of a criminal offence due to prejudices or discrimination are considered vulnerable persons and benefit from specific protection measures provided by the law. Hate speech and hate crime cases are investigated by the Romanian police by applying fines or initiating cases. Cases exceeding their competence are referred to the National Council for Combatting Discrimination.
- **Honduras:** We'd like to express our satisfaction of Romania's support of the recommendations made by Honduras concerning [...] to review national law and polices against discrimination with a view to incorporating all non-discrimination grounds, including gender identity and sexual orientation.
- **ILGA:** ILGA commended Romania for accepting 13 of these recommendations yet expressed regret that it partially noted 2 recommendations related to same-sex civil partnerships and marriage. It detailed human rights violations against rainbow families in the country.

## SERBIA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 24 JANUARY 2018, 14:30—18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 26 JANUARY 2018, 17:00—18:00

*During the 29<sup>th</sup> UPR Working Group Sessions, Serbia received 9 SOGIESC recommendations. It accepted all 9 recommendations.*

### A. SOGIESC Information

#### National Report

18. Progress has been made in protecting and improving gender equality, the status of Roma, people with disabilities, LGBT persons, migrants, refugees and national minorities.

45. All government officials publicly condemned all assaults on LGBT persons and attacks on Roma. All forms of violence, discriminatory behaviour and graffiti with hate speech prompted a public reaction in both print and electronic media, in addition to the prosecution of the perpetrators of such acts.

50. Training courses for employees in state bodies on the treatment of juvenile offenders, including their legal protection and prevention of discrimination, as well as on the police treatment of juvenile offenders, were held in the reporting period. Training courses for 1,037 expert employees in social care on attitudes towards LGBT persons and their family members were also organised in the said period.

65. In February 2016, the Ministry of Internal Affairs adopted an Action Plan for the improvement of police conduct to and cooperation with representatives and associations of LGBT persons, which has been fully implemented. Liaison officers for the LGBT community have also been appointed, and a rulebook for police practices when dealing with the LGBT population has been drafted and training courses for police officers have been conducted.

66. In maintaining law and order at Pride Parade 2014, good cooperation was realized with representatives of the event's organizational committee. After 2014, pride parades and events aimed at promoting the rights of LGBT persons were held without major incidents and with reduced security measures. Groups which earlier expressed dissatisfaction with the pride parade were brought under control.

#### Compilation of UN Information

13. The Human Rights Committee recommended that Serbia strengthen measures to eradicate all forms of social stigmatization of and discrimination and violence against persons based on their sexual orientation and gender identity or HIV status and implement a procedure for legal gender recognition. The United Nations country team asserted that, regarding the recommendations made during the previous review on the right to peaceful assembly of lesbian, gay, bisexual, transgender and intersex persons, Belgrade had successfully held annual pride events in three consecutive years (2014-2016).

#### Summary of Stakeholder's Information

4. POC recommended that Serbia adopt the law governing same-sex partnerships and a law regulating the legal consequences of sex and gender identity adjustment (change), amend the Law on the basics of the education system to explicitly prohibit discrimination based on sexual orientation and gender identity and amend the Criminal Code, in order to explicitly criminalize racism and intolerance based on sexual orientation and gender identity.

20. CoE stated that CoE-Commissioner, while acknowledging the progress made in advancing the rights of LGBTI persons, noted that homophobia and discrimination against them persisted. AI recommended ensuring that the Anti-Discrimination Law and the Commissioner for Discrimination provide LGBTI persons and organizations effective protection and access to effective remedies. XY-Spectrum recommended, inter alia, to include sex characteristics as a specific basis in antidiscrimination legislation.

41. JS5<sup>9</sup> stated that none of the five 2012-UPR recommendations on human rights defenders were implemented. It asserted that Serbia had failed to take adequate measures to safeguard these rights highlighting intimidation, attacks and harassment of human rights defenders and journalists who reported on sensitive issues, including LGBTI rights, transitional justice, corruption or government accountability.

## B. SOGIESC Advanced Questions for Serbia

- **Belgium:** What measures does the Serbian Government take to ensure effective prosecution of hate speech and hate crimes against the LGBTI-community?
- **Czechia:** How does the Government ensure protection of persons against violence based on their sexual orientation or gender identity and how is ensured access of victims of such violence to effective remedies?
- **Germany:** Serbia has made impressive improvements regarding the safeguarding of rights of members of the LGBTI community. However, discrimination of them still occurs on a daily basis. Which measures does Serbia plan to apply in order to further reduce everyday discrimination?

## C. Serbia's Working Group Session

- **Opening Remarks:** After 2014, pride parades and manifestation have been held to promote the rights of LGBTI people without major incidents, with a gradual decrease in police presence.

Dissemination of ideas, information or opinions which incite discrimination, hatred or violence against persons or groups of persons on the grounds of their affiliation or non-affiliation with a race, religion, nation or ethnicity or because of their sexual orientation, regardless whether such dissemination qualifies as a criminal offence or not, has been prohibited in the set of media laws from 2014.

Under the Law on Amendments to the Criminal Code of 2012, when deliberating a sentence for hate crime, special consideration is given to whether the committed act of hatred was based on race or religion, national or ethnic affiliation, sex, sexual orientation or gender identity of another person as the only mandatory aggravating circumstance.

- **Closing Remarks:** It is especially important that Serbia is making significant steps when it comes to gender equality, in that it ensures equal conditions for the exercise of rights by men and women as well as by persons of different gender identities. To that end, guidelines have been elaborated in Serbia. They are being finalised. These are guidelines for the prevention of hate crimes. They

<sup>9</sup> Joint Submission 5 submitted by: CIVICUS World Alliance for Citizen Participation, Human rights House Belgrade (Lawyer's Committee for Human Rights, Belgrade Center for Human Rights, Civic Initiatives, Helsinki Committee for Human Rights and Policy Center) and Human Rights House Foundation.

are aimed at ensuring better protection under criminal law for persons of different sexual orientations, members of the LGBTI population, persons of different gender identities. These guidelines will apply in practice because regular training is foreseen for the police and prosecutors of these representatives. I also wish to emphasise that this is the result of joint work by the Public Prosecutor's Office, the OSCE mission and the Human Rights Committee which illustrates the increased cooperation between the state and the civil sector.

#### D. Recommendations for Cycle III (2018)

##### a) Remarks of States

- **Australia:** We commend Serbia on its efforts to progress rights and protections for LGBTI people, and note that the 2017 pride parade took place without incident. However, Serbia doesn't have comprehensive legislation in place that protects the rights of intersex people in terms of equality and non-discrimination.
- **Austria:** Despite efforts, Roma, LGBTI people, persons with disabilities, persons with HIV/AIDS and other socially vulnerable groups are still facing discrimination in Serbia.
- **Brazil:** We also acknowledge the progress made in protecting the rights of LGBTI persons, and encourage Serbia to continue fighting homophobia and discrimination through the implementation of its anti-discrimination law and its strategy for the prevention and protection from discrimination.
- **Chile:** Chile would like to congratulate Serbia on ratifying the Convention of the Council of Europe on the Prevention and the Fight Against Violence Against Women and Domestic Violence, as well as the adoption of policies aimed at eliminating discrimination against women, people with disabilities, the LGBTI community, migrants, refugees and national minorities.
- **Germany:** We commend Serbia for the improvements it has achieved since the last UPR in 2013. These include improvements to the situation of LGBTI persons as well as Roma.
- **Greece:** We particularly commend the legal steps undertaken by the Serbian government in order to tackle issues of ethnic, racial or religious hatred or intolerance, racial and other discrimination, such as discrimination against LGBT persons.
- **Iceland:** Iceland welcomes efforts made since Serbia's last UPR to promote the right of peaceful assembly of LGBTI persons.
- **Ireland:** We take note of the Council of Europe's assessment that homophobia and LGBTI discrimination persist, but are pleased to note the actions Serbia has taken to safeguard the rights of the LGBTI community, and call on Serbia to make provision in law for same-sex civil partnership and marriage.
- **Netherlands:** This effort has included amongst other matters positive steps towards ensuring LGBTI persons can express themselves freely.
- **Philippines:** My delegation notes Serbia's progress in protecting and improving gender equality, people with disabilities, LGBT persons, migrants, and refugees.

##### b) The following recommendations have been examined by Serbia and have enjoy the support of Serbia

- **Australia:** Strengthen discrimination protections for LGBTI persons, and enact legislation that includes protection from discrimination on the grounds of intersex status (7.35).
- **Czechia:** Strengthen efforts to eliminate discrimination on the basis of sexual orientation and gender identity (7.29).



- **France:** Strengthen anti-discrimination mechanisms, including for LGBTI persons, and continue efforts to promote the human rights of persons belonging to minorities, especially the Roma minority (6.10).
- **Honduras:** Improve measures aimed at eradicating all forms of social stigmatization, discrimination and violence on the basis of sexual orientation or gender identity, or of their status regarding HIV (7.34).
- **Iceland:** Strengthen measures to eradicate all forms of social stigmatization and discrimination and violence against persons based on their sexual orientation and gender identity (7.36).
- **Italy:** Strengthen efforts to prevent and combat all forms of discrimination, including against women, children, Roma and LGBTI persons (6.14).
- **New Zealand:** Take concrete steps to protect lesbian, gay, bisexual, transgender and intersex people and their freedom of assembly and expression, and to eradicate all forms of discrimination and violence based on sexual orientation and gender identity (7.33).
- **Portugal:** Strengthen measures to combat all forms of social stigmatization, discrimination and violence against persons based on their sexual orientation, gender identity and HIV status (7.32).
- **Uruguay:** Amend the Criminal Code in order to explicitly criminalize racism and discrimination based on sexual orientation and gender identity (7.12).

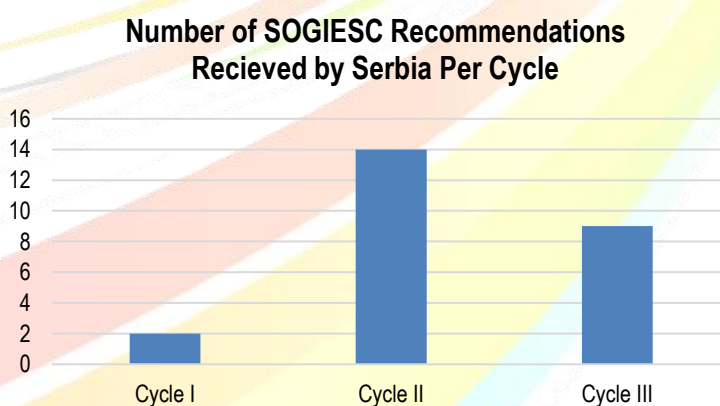
#### E. Recommendations for Cycle II (2013)

Recommending State	Recommendation	Response
Australia	Take concrete steps to protect its LGBT citizens and their freedom of assembly and expression	Accepted
Austria	Respond effectively to discrimination and violence against LGBT persons and ensure their safety during public events such as the Belgrade Pride Parade	Accepted
Belgium	Take positive measures to protect and enhance the rights of LGBT persons and facilitate their integration into society	Accepted
Canada	Take steps to protect the right to freedom of assembly and freedom of opinion and expression by ensuring the effective investigation and prosecution of alleged threats and violence by various non-state actors and extremist groups toward individuals and groups, including civil society organizations and individuals based on their sexual orientation	Accepted

Colombia	Implement mechanisms to follow up UPR recommendations in order to verify the implementation and impact of policies and measures adopted to promote equality of rights and non-discrimination for all citizens, in particular the measures aimed at vulnerable groups such as women, children, ethnic minorities, the LGBTI community and persons in the situation of disability	Accepted
Czechia	Take further steps to protect the LGBT population from intolerance, hate speech, and physical attacks as well as to ensure the better inclusion of the LGBT population and to promote tolerance in this regard	Accepted
Estonia	Continue its efforts in fighting discrimination based on ethnicity, gender and sexual orientation	Accepted
France	Put in place a policy of fighting discrimination based on sexual orientation and gender identity that would guarantee the rights of LGBT persons to freedoms of expression, association and peaceful assembly	Accepted
Germany	Ensure that LGBT persons in Serbia can exercise their human rights freely and in security, including fundamental freedoms such as the freedom of expression and the freedom of assembly and association	Accepted
Ireland	Adopt all necessary measures to reduce prejudice and discrimination against the LGBT community, including through the training of the police, prosecutors and judges to respond effectively to violence against LGBT activists and to ensure the adequate protection of LGBT persons in the work place	Accepted

Italy	Expand its intervention with the aim of better addressing racial prejudices, xenophobia, hate speeches and other forms of discrimination, in particular against Roma, women, persons with disabilities and the LGBT population	Accepted
Netherlands	Ensure that LGBT people can express themselves freely for example, in the Belgrade Pride in 2013	Accepted
Norway	Enhance efforts to enable the lesbian, gay, bisexual and transgender (LGBT) community to exercise their fundamental freedoms of expression, association and peaceful assembly	Accepted
United States	Ensure adequate protection for all citizens, including members of the LGBT community, by, inter alia, allowing them to assemble to publicly promote their human rights and identifying and prosecuting those who commit violence against those who participate in peaceful assemblies	Accepted

#### F. Graphic Comparison Between Cycles (1—3)



#### G. [Video of Serbia's UPR Working Group Session](#)

#### H. SOGIESC Mentions During Serbia's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **Honduras:** Our state should like to express its satisfaction for the support given by Serbia on recommendations given by Honduras relating to enforcing measures which seek to eradicate all forms of social stigmatization, discrimination and violence for reasons of sexual orientation, gender identity and HIV status.

## TONGA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 15 JANUARY 2018, 14:30—18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 19 JANUARY 2018, 15:00—18:30

*During the 29<sup>th</sup> UPR Working Group Sessions, Tonga received 12 SOGIESC recommendations. It noted all 12 recommendations.*

### A. SOGIESC Information

#### National Report

87. Tonga hosted a Pacific LGBTQI Human Rights Conference in May 2015. The theme of this conference was “Our voices, our Communities, our Rights: Advancing Human Rights related to Sexual Orientation, Gender Identity & Expression in the Pacific”.

88. The Tonga Leiti’s Association was established in 1992 with a focus on improving the rights and celebrating the contribution of Leitis in Tonga and to respond to the HIV epidemic. The Association launched their Strategic Plan 2016-2020 in 2016. The vision of the Plan was for Tonga to respect and uphold the rights of person with diverse sexual orientations and gender identities.

89. One of the main goals of the Plan was to reduce stigma and discrimination against Leitis and People Living with HIV. The Plan also aims to educate and advocate on international human rights law, recent international developments and agreed principles such as the Yogyakarta Principles.

90. Tonga Leitis Association continued to host a National Consultation with the theme “Together for a positive change – Leave no one behind” on October 2016. The Conference covered topics which included the impact of current legislation on Leitis Living in Tonga and the impact of legislation changes on the communities.

91. In March 2017, the Tonga Leiti Association started a campaign in Tongan schools to try and reduce bullying of transgender students.

92. In October 2017, the Tonga Leitis Association conducted Trans Health Blueprint Workshop with the theme Transgender people should have access to good quality health care in Tonga. This aim of the workshop is to educate trans men and trans women on their health rights in the community.

#### Compilation of UN Information

12. The United Nations country team noted that the Criminal Offences Act (1988) still criminalized same-sex sexual relations between consenting adults and carried a maximum penalty of 10 years’ imprisonment and, at the court’s discretion, the use of corporal punishment. The 1988 Constitution of Tonga, while containing a declaration of rights that provided for equality before the law (clause 4), did not refer to freedom from discrimination, nor did other laws exist ensuring protection from discrimination on grounds of sexual orientation and gender identity.

13. The United Nations country team added that Tongan culture was supportive of transgender and gender-diverse people and had a strong traditional *leiti* (or *fakaleiti*) community. The Tonga Leitis Association was well respected and had the support of the Tongan royal family. Nonetheless, *leitis* enjoyed no legal recognition and cross-dressing remained a crime under section 81 (5) of the Criminal Offences Act. Under section 136 of the Act, a person convicted of sodomy could be sent to prison for up to 10 years. In December 2016, the Tonga Leitis Association had held a national consultation with the Government to revise criminal laws to protect lesbian, gay, bisexual, transgender and intersex persons. However, legal reform in this area was yet to occur.

14. Stressing that during the second cycle of the universal periodic review, Tonga had accepted the recommendation to strengthen measures to eliminate all discriminatory treatment related to sexual orientation and gender identity, the United Nations country team recommended that Tonga commit to equality and non-discrimination by repealing the provisions of the Criminal Offences Act that criminalized same-sex sexual relations between consenting adults, combat discrimination against them and prevent violence by raising public awareness of the situation of lesbian, gay, bisexual, transgender and intersex persons.

18. The United Nations country team noted that sexual and gender-based violence, including intimate-partner violence, sexual assault and rape, and violence against transgender persons, was widespread.

### Summary of Stakeholder's Information

14. JS1<sup>10</sup> noted that there were increasing concerns of bullying suffered by Lesbian, Gay, Bisexual and Transgender (LGBT) students in schools and within their own families. The Ministry of Education, as well as other line Ministries, were reportedly usually hesitant to implement any policy or measures to promote and protect the human rights of LGBT students. JS1 recommended that Tonga make readily available information on LGBT to students in all schools in Tonga. It also recommended that Tonga enforce anti-bullying measures to protect LGBT students as it considered that it was as much a priority as any other issue.

### **B. SOGIESC Advanced Questions for Tonga**

- **Spain:** What measures has the government of Tonga taken to combat discrimination against the "Leiti" community?

### **C. Tonga's Working Group Session**

- **Opening Remarks:** With regards to the rights of LGBTQIs in Tonga, may I refer you to an advanced question from Spain: What measures has the government of Tonga taken to combat discrimination against the "Leiti" community? The Tongan Government acknowledges the rights of the Tonga Leiti Community to raise public awareness, educate and organize programs and projects to highlight the concerns and issues of the LGBTIQ. However, Tonga's historical cultural and religious beliefs, although tolerant, do not recognize this legal relationship status.

The LGBTIQ have a registered Tonga Leiti Association. The Tonga Leiti's Association was established in 1992 with a focus on improving the rights and celebrating the contribution of Leitis

<sup>10</sup> Joint Submission 1 submitted by: Tonga Civil Society Organisations Human Rights Taskforce: the Civil Society Forum of Tonga, the Ma'a Fafine mo e Famili Inc, the Women and Children Crisis Centre, the Tonga Women National Congress, The Tonga Public Service Association, the Tonga Leiti's Association, the Talitha Project and other individual human rights defenders, Nukualofa (Tonga).

in Tonga and to respond to the HIV epidemic. The Association launched their Strategic Plan 2016-2020 in 2016. The vision of the Plan was for Tonga to respect and uphold the rights of person with diverse sexual orientations and gender identities. One of the main goals of the Plan was to reduce stigma and discrimination against Leitis and People Living with HIV. The Plan also aims to educate and advocate on international human rights law, recent international developments and agreed principles such as the Yogyakarta Principles.

#### **D. Recommendations for Cycle III (2018)**

##### **a) Remarks of States**

- **Germany:** We are concerned about the human rights situation of women and other vulnerable groups, including people with disabilities and LGBTI.
- **Netherlands:** The Netherlands remains concerned about the position of LGBTI persons in Tonga. We urge the government to take further measures in this regard and we appreciate the elaboration on both these issues by Solicitor General Sisifa this afternoon.
- **United Kingdom:** The UK remains concerned that Tongan legislation continues to criminalise consensual same sex-conduct. It is encouraging that there have been no recent prosecutions under this legislation, however, we would urge Tonga to repeal all such provisions and ensure anti-discrimination laws also cover sexual orientation.
- **United States:** We encourage Tonga to decriminalise LGBTI status and conduct.
- **Uruguay:** Taking into account that the Constitution of Tonga prohibits discrimination based on social class, religion and race, but does not define or recognize discrimination on the basis of gender or other reasons, Uruguay hopes that gender identity and sexual orientation can be included as prohibited grounds of discrimination.

##### **b) The following recommendations will be examined by Tonga which will provide responses in due time, but no later than the 38th Session of the Human Rights Council**

- **Argentina:** In follow-up to the recommendation made in 2013, take urgent measures to repeal the norms and regulations that sanction and discriminate LGBTI persons, as well as to investigate and sanctions the perpetrators of acts of discrimination and violence towards them (7.47).
- **Canada:** Repeal legislation that criminalizes same-sex sexual practices between consenting adults and increase efforts to eliminate all forms of discrimination that target individuals based on their sexual orientation and gender identity (7.37).
- **Chile:** Continue working together with Leitis civil society (LGBTI), to adopt the necessary reforms to eradicate discrimination based on sexual orientation or gender identity (7.44).
- **Germany:** Introduce comprehensive anti-discrimination legislation to provide equal protection for all persons, including vulnerable groups like people with disabilities, and on all grounds, including sexual orientation and gender identity (7.36).
- **Germany:** De-criminalize consensual same-sex relations (7.37).
- **Honduras:** De-criminalize consented sexual relations between adult persons of the same sex (7.38).
- **Mexico:** Adopt specialized laws that allow the creation of mechanisms to combat sexual and gender-based violence, as well as discrimination based on sexual orientation and gender identity (7.40).
- **Montenegro:** Enact a new legislation or amend existing laws with a view to decriminalize same-sex relations between consenting adults (7.41).

- **Netherlands:** Introduce comprehensive anti-discrimination legislation to provide equal protection against discrimination for all persons and on all grounds, including sexual orientation or gender identity (7.42).
- **Portugal:** Revise the Criminal Offences Act in order to decriminalize sexual relations between consenting adults of the same sex (7.43).
- **Timor-Leste:** Repeal the provisions of the Criminal Offences Act that criminalized same-sex sexual relations between consenting adults (7.45).
- **United States:** Repeal the provisions of the Tongan Criminal Offences Act that criminalize LGBTI status and conduct (7.46).

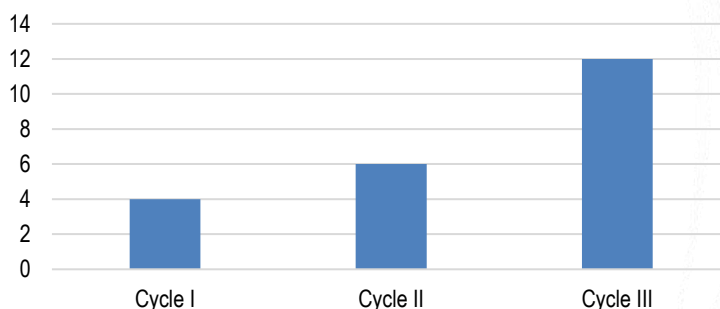
#### E. Recommendations for Cycle II (2013)

Recommending State	Recommendation	Response
Argentina	Examine the possibility of strengthening measures to eliminate all discriminatory treatment related to sexual orientation or gender identity	Accepted
Canada	Amend its legislation to repeal laws which criminalize consensual adult same-sex relations	Noted
France	Abrogate all penal provisions criminalizing sexual relations between consenting adults of the same sex	Noted
Norway	Bring its national legislation into conformity with its commitment to equality and non-discrimination, by repealing the provision in the Penal Code to criminalize sexual relations between consenting adults of the same sex	Noted
Spain	Decriminalize consensual sexual relations between same-sex adults, and combat cases of discrimination against those persons	Noted
United States	Repeal the provisions of the Tongan Criminal Offences Act criminalizing consensual sex between adults of the same gender	Noted

#### F. Graphic Comparison Between Cycles (1—3)



**Number of SOGIEC Recommendations Received by Tonga Per Cycle**



### G. [Video of Tonga's UPR Working Group Session](#)

#### H. SOGIESC Mentions During Tonga's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **Tonga (Opening Remarks):** Tonga takes note of recommendations 94.36 through to 94.37. The main recommendations under this theme were to eliminate discriminatory treatment related to sexual orientation or gender identity and the decriminalizing of same-sex consensual sex. Tonga has no policies or regulations which condone discrimination against sexual orientation and gender identity. The government continues to work with the Tonga Leiti Association, or the 'TLA', which advocates for the rights of persons with a different sexual orientation or gender identity and celebrates their contribution to Tongan society in entertainment, sport and business. Through government grants, the TLA has received funds for the refurbishment of its office space and the provision of a vehicle to help improve their public awareness and advocacy outreach. The decriminalization of consensual sex between same-sex adults is an issue that Tonga still wishes to consider further. It requires thorough, robust and comprehensive dialogue against the backdrop of cultural sensitivities and conservative Christian values of the Tongan society.
- **Honduras:** Similarly, Honduras expects Tonga to examine the opportunity to [...] decriminalize consensual sexual relations between adults of the same sex.

**UNITED ARAB EMIRATES  
UPR SOGIESC RECOMMENDATIONS**

**DATE AND TIME OF THE REVIEW: 22 JANUARY 2018, 14:30—18:00**

**DATE AND TIME OF THE ADOPTION OF THE REPORT: 25 JANUARY 2018, 16:30—18:00**

*During the 29<sup>th</sup> UPR Working Group Sessions, United Arab Emirates received 2 SOGIESC recommendations. It noted all 2 recommendations.*

**A. SOGIESC Information**

**National Report**

N/A

**Compilation of UN Information**

N/A

**Summary of Stakeholder's Information**

12. HRW stated that Article 356 of the Penal Code criminalizing “indecent” was used by courts to convict and sentence people for “moral” offenses, including same-sex relations. Furthermore, different emirates within the UAE had laws that criminalized same-sex sexual relations, including Abu Dhabi where “unnatural sex with another person” could be punished with up to 14 years in prison, and Dubai, which imposed 10 years of imprisonment for sodomy. The UAE rejected recommendations it received in 2012 to de-criminalize consensual same-sex marriage.

**B. SOGIESC Advanced Questions for United Arab Emirates**

N/A

**C. United Arab Emirates' Working Group Session**

N/A

**D. Recommendations for Cycle III (2018)**

**a) Remarks of States**

N/A

**b) The following recommendations have been examined by United Arab Emirates and have been noted by United Arab Emirates**

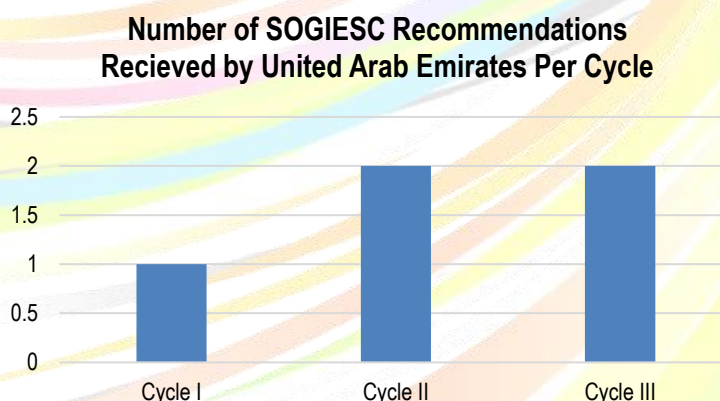
- **Iceland:** Take policy measures to promote tolerance and non-discrimination on the grounds of sexual orientation (6.92).

- **United States:** Take appropriate steps to protect lesbian, gay, bisexual and transgender persons and ensure that protection is provided to victims of sexual assault and perpetrators are identified, prosecuted, and held accountable (6.93).

**E. Recommendations for Cycle II (2013)**

Recommending State	Recommendation	Response
Argentina	Repeal the criminalization of sexual relations between persons of the same sex	Noted
United States	Protect the human rights of all individuals, including LGBT individuals, and take appropriate steps to help ensure that protection is provided to the victim and perpetrators are identified and prosecuted	Noted

**F. Graphic Comparison Between Cycles (1—3)**



**G. [Video of United Arab Emirates' UPR Working Group Session](#)**

**H. SOGIESC Mentions During United Arab Emirates' UPR Outcome (Item 6 of the Agenda of the Human Rights Council)**

N/A

