



**32<sup>nd</sup> UPR WORKING GROUP SESSIONS  
SOGIESC RECOMMENDATIONS  
(21 JANUARY–1 FEBRUARY 2019)**

This report contains a summary and the SOGIESC recommendations of the 32<sup>nd</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.

For further information on the UPR, please contact: [upr@ilga.org](mailto:upr@ilga.org).

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## **AFGHANISTAN**

### **UPR SOGIESC RECOMMENDATIONS**

**DATE AND TIME OF THE REVIEW: 21 JANUARY 2019, 14:30-18:00**  
**DATE AND TIME OF THE ADOPTION OF THE REPORT: 25 JANUARY 2019, 15:00-18:00**

During the 32<sup>nd</sup> UPR Working Group Sessions, Afghanistan received 0 SOGIESC recommendations.

#### **A. SOGIESC Information**

##### [National Report](#)

N/A

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

N/A

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

37. The United Nations Development Programme (UNDP) and the Food and Agriculture Organization of the United Nations (FAO) noted that key human rights violations continued to affect key populations, such as men who had sex with men, female sex workers and drug users. They continued to face discrimination and stigma that was affecting their access to health-care services, and they continued to be harassed, including by law enforcement agencies.

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

N/A

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

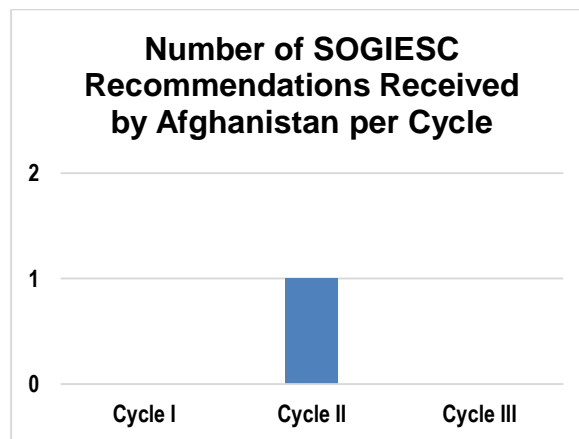
N/A

#### **D. Recommendations for Cycle III (2019)**

#### E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Ensure non-discrimination on the basis of sexual orientation and gender identity and repeal the provisions of the penal code which criminalise sexual relations between consenting adults of the same sex.	Norway	Noted

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



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

#### H. [SOGIESC Mentions During Afghanistan's UPR Outcome](#)

N/A

## **CAMBODIA**

### **UPR SOGIESC RECOMMENDATIONS**

**DATE AND TIME OF THE REVIEW: 30 JANUARY 2019, 14:30 – 18:00**

**DATE AND TIME OF THE ADOPTION OF THE REPORT: 1 FEBRUARY 2019, 17:00– 18:00**

During the 32<sup>nd</sup> UPR Working Group Sessions, Cambodia received 9 SOGIESC recommendations. It accepted all 9 recommendations.

#### **A. SOGIESC Information**

##### National Report

N/A

##### Compilation of UN Information

11. The same Committee (Human Rights Committee) was also concerned about reports of discrimination against lesbian, gay, bisexual and transgender persons, in particular in employment and health-care settings. It noted with concern the lack of legislation expressly prohibiting discrimination on the grounds of sexual orientation or gender identity.

##### Summary of Stakeholder's Information

12. JS3<sup>1</sup> noted with concern that the LGBTIQ community in Cambodia face numerous forms of discrimination, and are denied basic equality, including the lack of legal protection against discrimination and violence against LGBTIQ people, the absence of legal recognition of self-defined gender identity, the absence of marriage equality in Cambodian law; and the denial of full adoption rights to rainbow couples. It recommended that Cambodia introduce an Anti-Discrimination Law, which guarantees equality and explicitly prohibits discrimination of all kinds, including on the basis of SOGIESC, in all areas of public and private life, including in employment, education and access to health care, by all private and state actors.

13. While acknowledging that in 2014, The Ministry of Women's Affairs' five-year strategic plan noted that bisexual women and trans persons are among the most vulnerable groups in society, facing a higher risk of discrimination, stigma and GBV, JS3 expressed concern that the LGBTIQ community in Cambodia still endure high levels of GBV, affecting in particular transgender women.

33. JS17<sup>2</sup> recommended that Cambodia ensure that all citizens access free and/or affordable social services, including via social security schemes via a fair, accountable, and transparent tax-based financing. Cambodia must also enlarge the implementation of the pension scheme in support to all Cambodian, in particular, people with disabilities, elders, LGBTIQ individuals, women and children.

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

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<sup>1</sup> Joint Submission submitted by: The Cambodian Center for Human Rights ("CCHR"), Rainbow Community Kampuchea ("RoCK"),

<sup>2</sup> Joint Submission 17 submitted by: Submission by the Social Action for Community and Development ("SADC"), Women's Network for Unity ("WNU"), Rainbow Community Kampuchea ("RoCK"), Health Action Coordination Committee (HACC).

- **Sweden:** Sweden acknowledges steps taken towards a new “life skills” curriculum for grades 5-12 offering inclusive education on sexual orientation, sexuality education and gender-based violence. When can this new important curriculum be introduced and how will the Kingdom of Cambodia ensure that all teachers receive comprehensive training on SRHR, including LGBTI-persons’ full enjoyment of human rights?
- **United States of America:** One nongovernmental organization reported more than 100 incidents of violence or abuse against LGBTI persons in Cambodia, including domestic violence by family members. What steps is the government taking to protect these persons from such violence?
- **Belgium:** How is the government of Cambodia protecting LGBTI persons from stigma and discrimination? Does the government consider introducing specific anti-discrimination legislation?
- **Spain:** What measures have been taken by the Government to effectively implement the existing laws in order to improve the integration of the LGBTI community into the society?

### C. Cambodia’s Working Group Session

- **Intervention made after 61 interventions:** Related to sexual orientation, sexuality education and gender based violence, the Royal Government has made significant effort to eliminate discrimination against women and to promote gender equality and equity in Cambodia through the development and implementation of legal framework, policy, action-plan and education program to address and respond to discrimination, violence against women and girls, to promote equality between men and women in the society. According to regulation strategy phase four the Government has clear plan to promote gender equality, sexual orientation, sexuality education, to eliminate discrimination and gender based violence as following; implement gender equality in policy framework and national development plan, reducing gender gap in education, vocational training and the civil service, widening women entrepreneurship initiative, reducing domestic violence and sexual abuse against women and children, uplifting social morality, women’s dignity and Cambodian family, improving legal services for women and children, put in place and implement the social protection policy framework 2016 to 2025.
- Related to LGBT, even though there is a lack of policy and legal framework governing the right of LGBT people, the Government has been taking some action eliminating discrimination against LGBT community in Cambodia through promoting the public awareness on this issue and the dissemination program via media, formal and informal communication. Regard with legal awareness the civil law of Cambodia not yet recognize the legitimacy of homosexual marriage and registration, however the law not either criminalize such marriage and practice like some other countries. Such homosexual marriage is okay and very common in Cambodian society through traditional and cultural practices, as is found that approximately one thousand same-sex couples have already been married with traditional party and ceremony. In reality the LGBT people in Cambodia are exercising their rights and freedom without restriction from the Government and are doing a lot of advocacy campaign locally and internationally to promote their rights and freedom with full support and participation from the Government, particularly the CHRC. And also Prime Minister sent a message to the LGBT community through CHRC President, that the Government must take the lead in promoting LGBT rights and eliminating all form of discrimination against this community in Cambodia. However, to amend the civil law in order to legalize such practice there need to be more advocacy and promotion of public

awareness so that it is more acceptable from society and community, so the cultural resistance becomes less and as a result the law will then be amended accordingly.

#### D. Recommendations for Cycle III (2019)

##### a) Remarks of States

- **Greece:** We would like to note Cambodia's progress in respect of LGBTIQ inclusion, as well as the development of a safety net for the most vulnerable, including persons with disabilities.
- **Latvia:** Latvia notes received visits from the Special Rapporteur on the situation of human rights in Cambodia and accepted visit requests by the Special Rapporteur on the rights of persons with disabilities and Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.
- **Netherlands:** The Netherlands commends Cambodia for its commitment to inclusive instruction on sexual orientation issues, sexual education, gender based-violence for grades 5 to 12.
- **Sweden:** Sweden welcomes Cambodia's participation in the UPR process and acknowledges steps towards a strengthening of LGBTI persons' full enjoyment of human rights

##### b) The following recommendations will be examined by Cambodia, which will provide responses no later than the 41<sup>st</sup> session of the Human Rights Council

- **Iceland:** Introduce an anti-discrimination law which guarantees and explicitly prohibits all kinds of discrimination, including on the basis of sexual orientation, gender identity and sex characteristics (6.41).
- **Iceland:** Introduce a gender recognition law (6.42).
- **Iceland:** Amend the constitution to ensure marriage equality for same-sex couples (6.43).
- **Mexico:** Adopt, in consultation with civil society organizations, comprehensive legislation and policies against discrimination and violence based on sexual orientation or gender identity, and guarantee their implementation through all public entities, in particular in the education, health and labour sectors (6.46).
- **Netherlands:** Amend Article 45 of the Constitution, so as to enable legal marriage equality, with a view to pursuing full equal treatment of LGBTI persons in all areas (6.47).
- **Sweden:** Introduce new legislation that guarantees equality and explicitly prohibits discrimination of LGBTI persons (6.48).
- **Uruguay:** Adopt effective measures to combat and punish discrimination and violence motivated by sexual orientation and gender identity (6.49).
- **Australia:** Introduce, by the end of 2023, an Anti-Discrimination Law which guarantees equality and explicitly prohibits discrimination of all kinds, including on the basis of religion, sexual orientation, gender identity and expression and sex characteristics (6.50).
- **Canada:** Amend article 45 of the Constitution to allow same-sex couples to marry (6.51).

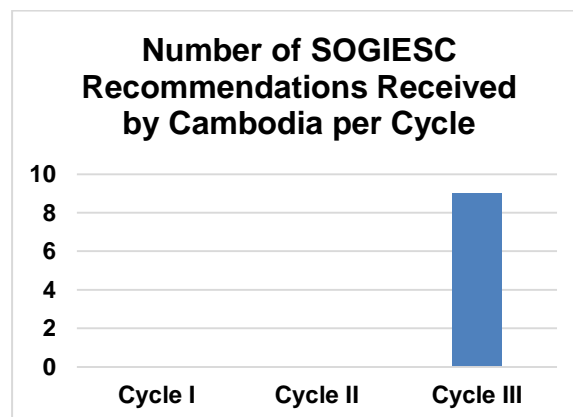
#### E. Recommendations for Cycle II (2014)

N/A

**F. SOGIESC recommendations shared by HRDs during ILGA's UPR advocacy week in Geneva: CCHR, RoCK, DJ, MRI, RHAC, ILGA, ILGA Asia, ASC, RFSU, ActionAid Cambodia, DCA and CamASEAN**

1. Introduce an Anti-Discrimination Law by the end of 2023, which guarantees equality and explicitly prohibits discrimination of all kinds, including on the basis of SOGIESC, in line with SDG 5.1.
2. Introduce a Gender Recognition Law by the end of 2021.
3. Amend Article 45 of the constitution to enable legal marriage equality by the end of 2022.
4. Amend the relevant provisions of the Civil Code (Articles 1008-1015) governing adoption to guarantee that full adoption rights are made available to any couple by the end of 2021.
5. Adopt specific policies of non-discrimination on the basis of SOGIESC across all Cambodian public services, in priority in the education system (in line with SDG 4), health sector (in line with SDG 3), in the media, and in the police departments at the local and national level (in line with SDG 16), by 2020.
6. Amend Article 12 of the 1997 Labor Law to include a provision prohibiting discrimination in employment on the basis of SOGIESC, by the end of 2021, in line with SDG 8.5.
7. Ensure the effective protection of LGBTIQ people who engage in sex work, in line with SDG.
8. Ensure that all health-care professionals are trained on SOGIESC, including through the inclusion of SOGIESC in the medical and nursing school curriculums, by the next UPR cycle, in line with SDG 3.
9. Ensure that all teachers receive comprehensive training on SRHR, including SOGIESC rights, by the end of 2022.

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



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

I. [SOGIESC Mentions During Cambodia's UPR Outcome](#)

- **UNFPA:** Concerning the legal frameworks that can guarantee and prohibit all kinds of discrimination, including on the basis of sexual orientation, gender identity and sex characteristics, UNFPA would like to support the government to develop its first national gender policy and its five-year Gender Strategy (2019-23), together with other agencies in accordance with international principles and standards.
- **ILGA:** Commended Cambodia for accepting all recommendations regarding SOGIESC issues. It called on the RGC to work with all relevant stakeholders in order to fully implement all the accepted recommendations
- **Asian-Pacific Resource and Research Centre for Women (ARROW):** Commended Cambodia's initiative to implement measures on sexual orientation issues, but expressed its concerns towards the existing gaps.

## CHILE UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 22 JANUARY 2019, 09:00 – 12:30  
DATE AND TIME OF THE ADOPTION OF THE REPORT: 25 JANUARY 2019, 15:00-18:00

During the 32<sup>nd</sup> UPR Working Group Sessions, Chile received 7 SOGIESC recommendations. It accepted 4 recommendations and noted 3.

### A. SOGIESC Information

#### National Report

115. Act No. 20.830 (2015) created a legal institution known as a civil union agreement and allowed persons of the same sex to enter into such unions. In October 2018, under the current Administration, a bill was adopted to “recognize and protect the right to gender identity” (bulletin No. 8924-07). It establishes a regulation under which persons over the age of 14 are allowed to change the entries on their Civil Registry and Identity Service records concerning their sex and given name when this information does not correspond or is not consistent with the requester’s gender identity. The Ministry of Justice and Human Rights established a committee of experts to draft a new Criminal Code. In drafting the legislation, the committee has not included any provisions that would penalize conduct offensive to decency or morality, in line with the demands of the lesbian, gay, bisexual, transgender and intersex community.

116. In 2017 the Ministry of Education and the Office of the Superintendent of Education published a circular on the rights of transgender children and young people in the field of education, which sets out guiding principles for the educational community, school board members and school principals. It also published guidelines for the inclusion of lesbian, gay, bisexual, transgender and intersex persons, which offer suggestions for safeguarding the rights of transgender students, in addition to educational topics and learning goals for addressing this issue.

117. The Public Prosecution Service, along with sexual diversity organizations, 58 has formed an “Observatory on Violence against Lesbian, Gay, Bisexual, Transgender and Intersex Persons”.

146. With regard to the implementation of Act No. 20.609 on anti-discrimination measures, in the period between 2012 and 2016, 234 cases were brought before courts of first instance, while 87 appeals were brought before courts of appeal and 10 before the Supreme Court; some 64 per cent of these cases have been completed. The Act has generally been invoked in relation to discrimination on grounds of illness or disability, ideology or political opinion, or sexual orientation. In 9 per cent of all completed cases, the payment of fines was imposed.

#### Compilation of UN Information

14. The Committee on Economic, Social and Cultural Rights was concerned at the persistent discrimination against indigenous peoples, lesbian, gay, bisexual and transgender persons, migrants, asylum seekers and refugees, particularly in the areas of employment, education and health services.

28. The Committee on the Elimination of Discrimination against Women remained concerned about the reported use of violence by State agents against lesbian, bisexual and transgender women.

44. The United Nations country team noted that in 2015 the Act Creating the Civil Union Agreement had been adopted in order to regulate the legal effects of shared emotional life between two persons of the same or opposite sex.

45. The Committee on the Elimination of Discrimination against Women recommended that Chile adopt the draft law on same-sex marriage (bill No. 11422-07) and ensure filiation rights and parental rights were protected.

### Summary of Stakeholder's Information

25. Joint Submission 16 (JS16<sup>3</sup>) highlighted the invisibility and lack of protection of the lesbian, gay, bisexual, transgender and intersex population and the increase in reports of homophobia and transphobia.

55. MOVILH<sup>4</sup> indicated that Act No. 20.830 of 2015 on the Civil Union Agreement had, for the first time, enabled same-sex and different-sex couples to formalize their unions under regulations other than those relating to marriage. However, it noted that the agreement did not grant same-sex couples equal rights in respect of children.

56. In 2015, the Inter-American Commission on Human Rights welcomed the submission of a bill recognizing equal marriage. JS15<sup>5</sup> recommended the urgent debate and approval of such bill.

57. MOVILH noted that article 365 of the Criminal Code had the effect of establishing an age of sexual consent of 18 years for homosexual persons and 14 years for heterosexuals. It stated that the bill that would repeal article 365 of the Criminal Code had been pending before Congress since 2009.

76. MOVILH welcomed the significant progress made in educational policies designed to promote respect for lesbian, gay, bisexual and transgender persons and recommended ensuring their full implementation.

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<sup>3</sup> Joint submission 16 submitted by: Fundación Iguales (Chile); Movimiento por la Diversidad Sexual — MUMS (Chile); Agrupación Rompiendo el Silencio (Chile); Aquarela (Chile), Pastoral de la Diversidad — PADIS (Chile); Prevención Viña (Chile); Agenda Kuir (Chile); Sororidad entre especies (Chile); Colectivo Estudiantil Secretaría de género y sexualidad Pontificia Universidad Católica de Valparaíso (Chile); Colectivo Estudiantil Comisión de género y sexualidad Universidad de Valparaíso (Chile); Comisión de género y feminismo Universidad de Viña del Mar (Chile); Colectivo Estudiantil Vocalía de género y sexualidad Universidad Técnica Federico Santa María (Chile); Colectivo Estudiantil Comisión de género y sexualidad Liceo Eduardo de la Barra (Chile);

<sup>4</sup> Movimiento de Integración y Liberación Homosexual

<sup>5</sup> Joint submission 15 submitted by: Centro Regional de Derechos Humanos y Justicia de Género, Corporación Humanas (Chile); Agrupación Lésbica Rompiendo Silencio (Chile); Centro de Estudios de la Mujer (Chile); Circulo Emancipador de Mujeres y Niñas con Discapacidad de Chile (Chile); Coordinadora Autónoma Contra la Violencia (Chile); Corporación Opción (Chile); Fundación Instituto de la Mujer (Chile); Fundación Iguales (Chile); Fundación 1367 Casa Memoria José Domingo Cañas (Chile); Litigación Estructural para América del Sur — LEASUR (Chile); Observatorio Contra el Acoso Callejero — OCAC (Chile); Observatorio de Violencia Institucional en Chile — OVIC (Chile);

## B. SOGIESC Advanced Questions for Chile

- **United Kingdom:** Since the introduction of the Anti-discrimination Law “Ley Zamudio” in 2012 and the Gender Identity Law in 2018, what further steps does the Government plan to take to protect the rights of LGBTI persons?
- **Sweden:** There have been several bills with the aim to strengthen LGBTI-persons’ full enjoyment of human rights. How does the Chilean government intend to ensure further that LGBTI-persons fully enjoy their human rights through legal measures and that they are not being discriminated against?

## C. Chile’s Working Group Session

- **Opening remarks:** Turning to the protection of rights of sexual diversity, in recent years Chile has made relevant progress. We adopted a law that allows for civil unions in 2015. This legally recognizes civil unions among same sex and non-same sex partners. Recently we adopted the law on gender identity.
- On 10 December 2018, we adopted the law 21.120 which recognizes the protection of the right to gender identity. This is based on the principles of non-discrimination, confidentiality, the principle of dignified treatment, the best interest of the child, where parents and legal representatives must agree with the exercise of all rights. Any person has the right to be recognized and identified in keeping with the gender identity and official registers. These must be in line with the person’s identity. The change of name and gender on the register can be done twice. In the case of minors under 18 the consent of the parents is required to the judicial procedure.
- In addition, regarding protection LGBTI persons rights, the court has recently been incorporating the jurisprudence of the Inter-American Court of Human Rights on this subject in order to uphold the rights of transgender persons and interpret the concept of the best interest of the child in accordance with the international practice.

## D. Recommendations for Cycle III (2019)<sup>6</sup>

### a) Remarks of States

- **Australia:** Australia encourages Chile to continue addressing discrimination against LGBTI persons.
- **France:** France welcomes Chile's commitment to human rights. Chile has acceded to a number of international instruments and has strengthened its institutional framework. Several legislative reforms have been carried out for the rights of women and LGBTI persons.
- **Iceland:** We applaud the significant progress made by Chile on the rights of LGBTI persons and towards gender equality.
- **Netherlands:** The Netherlands commends Chile for the progress made on advancements to human rights in general and in particular to those of LGBTI people, evidenced among other by approval of the Gender Identity Bill, allowing transgenders to legally change their genders in official records.

<sup>6</sup> The following LGBTI-hostile recommendation was made by Egypt: "Preserve the family, and developing it as the fundamental and natural unit for the preservation of the society (6.106)"

- **Uruguay:** Uruguay congratulates Chile for the progress in the promotion and protection of human rights. We celebrate the creation of the undersecretary for Human Rights for the implementation of the National Human Rights Plan 2018-2021, the ratification of the Optional Protocol to the Convention on the Rights of the Child regarding a Communications Procedure and the approval of the Law 20,830 that allows the civil union between same-sex couples.
- **Slovenia:** Slovenia would like to commend the delegation of Chile for the co-chairmanship of the Equal Rights Coalition and its role in the area of the LGBTI rights.
- **Sweden:** Sweden acknowledges the Chilean government's commitments to women's and girls' full enjoyment of human rights, as well as welcomes the strengthening of LGBTI-persons' full enjoyment of human rights.

**b) The following recommendations were examined by Chile and enjoy its support:**

- **Australia:** Examine legal protections for intersex children from non-therapeutic medical procedures before they reach an age where they can consent (6.208)
- **Ireland:** Ensure that legislation passed to protect the welfare of LGBTI persons is fully implemented (6.39).
- **Malta:** Address effectively societal negative attitudes that discriminate on the basis of sexual orientation and gender identity (6.40).
- **Malta:** Guarantee the protection of all vulnerable groups in society, including transgender and intersex children and adolescents (6.41).

**c) The following recommendations were examined and noted by Chile:**

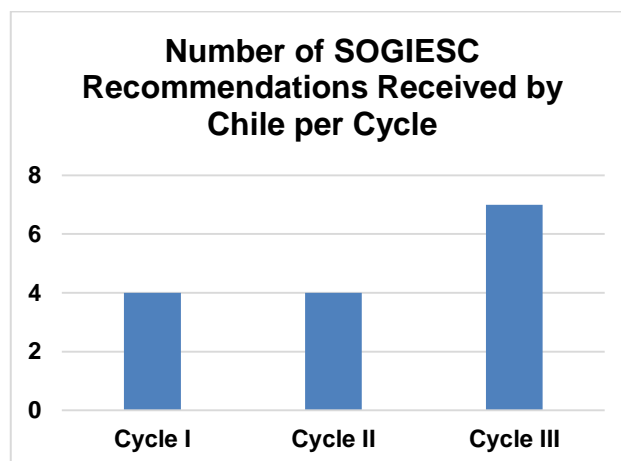
- **Netherlands:** Proceed with the legalization of same sex marriages by ratifying the Marriage Equality Bill currently under debate in Congress (6.103).
- **Portugal:** Adopt the existing draft law on same-sex marriage (6.104).
- **Sweden:** Legalize same-sex marriage (6.105).

**E. Recommendations for Cycle II (2014)**

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Develop and carry out a plan for implementation of the Anti-Discrimination Law, including positive and preventive actions. In particular, address discrimination based on gender identity and sexual orientation	Colombia	Accepted
Review its Penal Code, namely article 373, and other laws in order to prevent discrimination against LGBTI persons	Czechia	Accepted
Support new laws and measures to counter discriminatory attitudes in society and to prevent discrimination on the basis of sexual orientation and gender identity by providing	Netherlands	Accepted

public education and supporting equality initiatives		
Keep working on awareness measures, including in schools, to combat discriminatory attitudes based on sexual orientation	Spain	Accepted

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



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

#### H. [SOGIESC Mentions During Chile's UPR Outcome](#)

- **Action Canada for Population and Development:** Commended Chile's commitment on accepting all recommendations regarding the protection of LGBTIQ+ persons. It stated that the law approved in Chile does not comprehend trans children discriminated by their families and elaborated on the importance of adopting measures to protect trans and intersex children.
- **HatzeOir (hostile):** Stated that there is a current 'LGBTI indoctrinement' in schools that affects parents' rights to decide in the children education.

## COMOROS UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 25 JANUARY 2019, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 29 JANUARY 2019, 16:30 – 18:00

During the 32<sup>nd</sup> UPR Working Group Sessions, Comoros received 5 SOGIESC recommendations. It noted all 5 recommendations.

### A. SOGIESC Information

#### National Report

181. The following recommendations made during the previous cycle did not enjoy the support of the Comoros:

- Initiate a debate on the decriminalization of homosexuality (Spain)
- Review the report of the High Commissioner on sexual orientation and gender identity and give consideration to implementing its recommendations (Netherlands)
- Repeal all provisions giving rise to discrimination based on sexual orientation or gender identity and ensure respect for fundamental freedoms for all citizens (France)
- Take steps to avoid discrimination and violation of the human rights of the LGBT population (Brazil)
- Decriminalize religious proselytism and religious freedom (Spain)
- Put measures in place to better protect religious freedom, including through bringing the older Penal Code, which prohibits conversion from Islam, in line with the Constitution, and enabling people of all religions to practise religion openly without risking discrimination (United Kingdom of Great Britain and Northern Ireland)
- Guarantee and protect freedom of religion or conscience for all its citizens (France)

186. The Union of the Comoros considers that sexual orientation is a private matter and thus not a priority at present.

#### Compilation of UN Information

N/A

#### Summary of Stakeholder's Information

N/A

### B. SOGIESC Advanced Questions for Comoros

N/A

### C. Comoros' Working Group Session

- **Opening remarks:** During the previous Session, the following recommendations were made and did not receive the support of the Comoros: Initiate a debate on the decriminalization of homosexuality (Spain); To consider the report of the High Commissioner on Orientations and Gender Identity and to take into consideration the implementation of Recommendations (Netherlands); Repeal all provisions giving rise to discrimination based on orientation or gender identity and guarantee respect for fundamental freedoms for all citizens (France); Take steps to avoid discrimination and violation of the rights of the LGBT population (Brazil)
- With regard to sexual orientation, the Union of Comoros considers that these are matters that are of a private nature and therefore do not constitute a priority for the moment.

### D. Recommendations for Cycle III (2019)

#### a) Remarks of States

- **Netherlands:** The Netherlands remains concerned about limitations of fundamental freedoms, the lack of participation of woman in public, social and political life and the rights of LGBTI persons.
- **United Kingdom:** The UK also remains concerned by recent restrictions on media freedom as well as provisions that give rise to discrimination based on sexual orientation and gender identity.

#### c) The following recommendations have been examined and noted by Comoros:

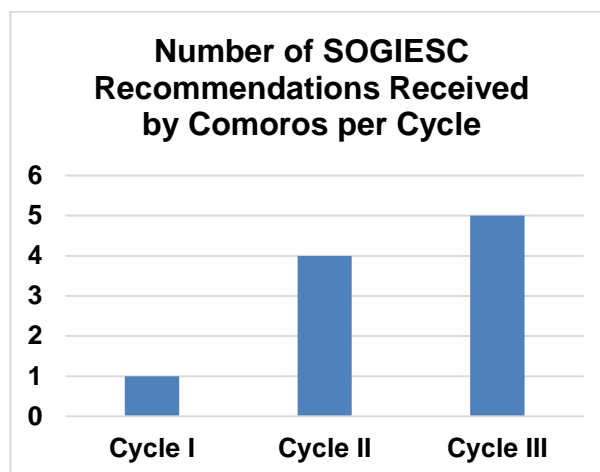
- **Chile:** Strengthen measures to eradicate all violence and discrimination, in particular against women, persons with disabilities and LGBTI people, and to protect their rights (7.2).
- **Iceland:** Repeal all provisions giving rise to discrimination based on sexual orientation or gender identity (7.3).
- **Spain:** Initiate an internal debate on the decriminalization of sexual relations between persons of the same sex (7.4).
- **Australia:** Decriminalise same-sex relationships between consenting adults and implement policies to address inequality, violence and discrimination based on sexual orientation and gender identity (7.5).
- **Honduras:** Adopt the necessary measures in the legislative sphere to combat discrimination in any of its forms, including based on gender, disability, geographical social origin, and sexual orientation (7.6).

### E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Initiate a debate on the decriminalization of homosexuality	Spain	Noted
Review the report of the High Commissioner on sexual orientation and gender identity	Netherlands	Noted

and give consideration to implementing its recommendations		
Repeal all provisions giving rise to discrimination based on sexual orientation or gender identity and ensure respect for fundamental freedoms for all citizens	France	Noted
Take steps to avoid discrimination and violation of the human rights of the LGBT population	Brazil	Noted

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



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

#### H. [SOGIESC Mentions During Comoros' UPR Outcome](#)

- **Opening remarks:** Comoros continues to believe that this (sexual orientation) is an area that belong to the private life of individuals. Moreover, it is very important to know that there have been no reported cases of violence or discrimination against persons based on their sexual orientation or because of gender.

## CYPRUS

### UPR SOGIESC RECOMMENDATIONS

**DATE AND TIME OF THE REVIEW: 29 JANUARY 2019, 09:00 – 12:30**

**DATE AND TIME OF THE ADOPTION OF THE REPORT: 31 JANUARY 2019, 16:30 – 18:00**

During the 32nd UPR Working Group Sessions, Cyprus received 8 SOGIESC recommendations. It accepted all 8 recommendations.

#### A. SOGIESC Information

##### National Report

5. Prioritizing the protection and promotion of women's rights and gender equality via the implementation of the New National Action Plan for Gender Equality 2018-2021, one of the key objective of which is "Empowering the Vulnerable Groups of Women". It places emphasis on overcoming obstacles faced in particular by vulnerable groups, including migrant women, refugees, asylum seekers, single-parents, LGBTIs, persons with disabilities and elderly persons.

11. The new National Action Plan for Gender Equality 2018-2021 (Objective "Empowering the Vulnerable Groups of Women") is a cornerstone of policy, which takes into account the various obstacles, difficulties and challenges faced by vulnerable groups of women, including migrant women, refugees, asylum seekers, single-parents, LGBTI, persons with disabilities and elderly persons. This Action Plan includes, (but is not limited to), access to free and/or affordable legal services for these vulnerable groups, training programmes specifically designed for Government bodies/officers dealing with these groups, cultivation of a climate of acceptance within schools, operating the state shelter for female victims of sexual exploitation and establishing a Government-funded NGO-operated shelter for victims of human trafficking.

84. In August 2018, Cyprus became 40th member of the Equal Rights Coalition, demonstrating Nicosia's commitment to advancing the rights of LGBTI persons and supporting initiatives promoting non-discrimination and equality.

85. New legislation is in preparation, setting a clear statutory process for correcting the registered sex of trans persons (adults and minors). This will only require a decision by the Registrar and not previous medical intervention or psychiatric reports. The consequences on the personal situation, family and other relationships of the person whose gender is redefined, will also be regulated.

86. In 2017, the Criminal Code was amended by Law 31(I)/2017 to include homophobic motivation as an aggravating circumstance (in addition to the racist and xenophobic motivation), with a maximum sentence of three years or a fine of 5000 euros or both.

103. To bring further transparency and visibility, but also to assist prisoners on an individual level, but also to bring them closer to the outside world, they are permitted to participate in events such as Europa Donna-International Day against Breast Cancer, gay pride parade, theatrical

performances, International Day against Drugs, charity events, arts and crafts exhibitions, blood donations, Cleaning Cyprus and volunteer events, among others.

### Compilation of UN Information

N/A

### Summary of Stakeholder's Information

9. The European Commission against Racism and Intolerance of the Council of Europe (ECRI) noted that the criminal law did not provide for aggravating circumstances in cases of homo/transphobic motivation and equal treatment legislation did not cover the ground of gender identity. It recommended that Cyprus include gender identity as a prohibited discrimination ground in its equal treatment legislation.

16. ECRI recommended that gender identity be included as a prohibited discrimination ground in equal treatment legislation, and that Cyprus adopt an action plan to combat homophobia and transphobia in all areas of everyday life.

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

N/A

### **C. Cyprus' Working Group Session**

- **Opening remarks:** Cyprus is fully committed to the advancement of rights of LGBTI community. In August 2018, Cyprus joined the Equal Rights coalition. Significant legislative measures have been adopted and others are currently accessed. The law on civil partnership of same and different sex couples was enacted in 2015. New legislation concerning legal gender recognition is to be laid before the parliament. Moreover, in 2017, the criminal code was amended to include homophobic motivation and gender identity as aggravated circumstances. The participation of Cyprus in the European governmental LGBTI focal point network is envisioned.
- **Closing remarks:** In complying with our international human rights obligations in matter of gender equality, children rights, the rights of the LGBTI persons, and persons with disabilities, numerous laws and actions plans have been adopted and new independent bodies and mechanisms have been established

### **D. Recommendations for Cycle III (2019)**

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

- **Australia:** Australia notes reports that societal discrimination against LGBTI persons is ongoing, even with anti-discrimination laws in place.
- **Canada:** Canada congratulates and thanks Cyprus for joining the Equal Rights Coalition which we currently co-chair with Chile.
- **France:** France welcomes the progress made since the last Review, the ratification of numerous international instruments, progress in the fight against gender discrimination at

work, the protection of asylum seekers, the protection of children and the adoption of a law to fight more effectively against discrimination and violence related to sexual orientation.

- **Malta:** Malta commends the steps the Government of Cyprus has taken over the past 4 years, in particular those aimed at the advancement of the rights of LGBTI persons in the country.
- **Netherlands:** The Netherlands commends Cyprus in the field of equal rights for LGBTI persons and the accession to the Equal Rights coalition.
- **Spain:** We note with satisfaction the accession of Cyprus to the Equal Rights Coalition, as well as the recent reform of the Criminal Code to include homophobic motivation as an aggravating circumstance, and news about a possible draft law on transsexuality.

**b) The following recommendations have been examined by Cyprus and enjoy its support:**

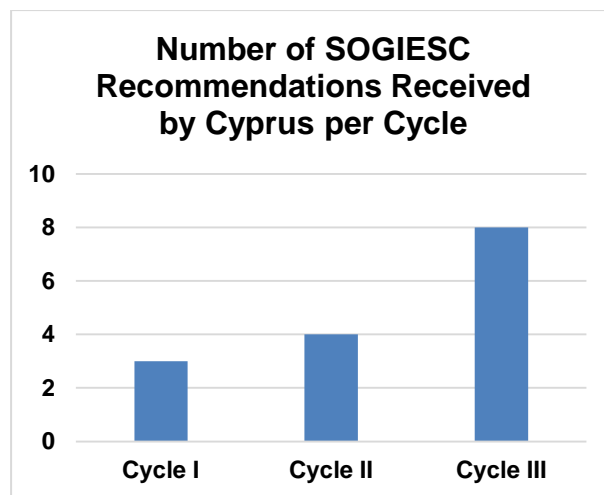
- **Australia:** Take steps to protect and enforce the rights of its LGBTI community (6.47).
- **Canada:** Take measures to combat discrimination against the LGBTI community and consider legal measures that would punish incitement to hatred on grounds of sexual orientation and gender identity (6.41).
- **France:** Continue efforts to prohibit discriminatory practices, defamation, incitement to discrimination, hostility and violence against persons because of their sexual orientation (6.42).
- **Iceland:** Include gender identity as a prohibited ground for discrimination in equal treatment legislation and adopt an action plan to combat homophobia and transphobia in all areas of everyday life (6.53).
- **Malta:** Step up efforts to enact the new legislation on transgender persons (6.43)
- **Malta:** Provide further assistance to victims of discrimination or violence based on gender identity and sexual orientation (6.44).
- **Malta:** Increase awareness-raising programmes and campaigns aimed at deterring public incitement of acts against persons on the basis of sexual orientation and gender identity (6.45).
- **Spain:** Criminalize incitement to hatred for reasons of sexual orientation or gender identity (6.46).

**E. Recommendations for Cycle II (2014)**

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Criminalize public incitement of acts against persons on the basis of sexual orientation or gender identity	United Kingdom	Accepted
Enact legislation to recognize civil partnership and amend the Criminal Code to explicitly prohibit incitement to hatred, violence or discrimination against persons on the basis of sexual orientation or gender identity	Ireland	Accepted
Include a prohibition of discrimination of any kind, including discrimination based on	Netherlands	Accepted

sexual orientation and gender identity, in areas outside employment, in line with international standards		
Extend its interdepartmental approach on domestic violence also towards forms of violence outside the family, for example gender-related violence and violence against LGBT people	Netherlands	Accepted

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



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

#### H. [SOGIESC Mentions During Cyprus' UPR Outcome](#)

- **Opening remarks:** We are also committed on advancing the rights of the LGBTI community and therefore accepted all the relevant recommendations. Since January, progress has been made in adopting a new legislation on legal gender recognition. The process of establishing a national mechanism to promote multiculturalism, acceptance and cultural diversity has the LGBTI rights as an important component of this mechanism is under way. As a new member of the Equal Rights Coalition and as an European focal point, Cyprus will benefit from the best practices of other participating states in order to safeguard the full equality of citizens regardless of their SOGIESC
- **United Nations Watch:** Urged the government to adopt the recommendations made on protecting LGBTI persons from violence.
- **International Humanist and Ethical Union:** Commend Cyprus for enacting legislation on marriage equality and on hate speech based on sexual orientation.

## DOMINICAN REPUBLIC UPR SOGIESC RECOMMENDATIONS

**DATE AND TIME OF THE REVIEW: 30 JANUARY 2019, 09:00 – 12:30**

**DATE AND TIME OF THE ADOPTION OF THE REPORT: 01 FEBRUARY 2019, 17:00 – 18:00**

During the 32<sup>nd</sup> UPR Working Group Sessions, Dominican Republic received 10 SOGIESC recommendations. It will provide a response no later than the 41<sup>st</sup> Session of the Human Rights Council

### **A. SOGIESC Information**

#### National Report

Protecting the rights of lesbian, gay, bisexual and transgender (LGBT) persons

74. Public policies for guaranteeing gender equality are set out in the National Development Strategy (Act No. 1–12 and its implementing regulations), the National Gender Equality Plan, the Multi-Year Public Sector Plan, which encompasses all government ministries and decentralized agencies, and the Strategic Plan of the Supreme Court of Justice.

75. A draft general act on equality and non-discrimination is currently under consideration. Its aims are to prevent and eliminate all forms of discrimination exercised against any person and to promote equal opportunities, equal treatment and a culture of tolerance and respect for diversity.

76. Guidelines for prosecutors have been issued to make them aware of and increase their sensitivity to the manner in which persons with disabilities, older persons and lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons should be treated.

#### Compilation of UN Information

12. The Human Rights Committee was concerned at reports of discrimination, violence and assault, including by the police, against lesbian, gay, bisexual, transgender and intersex persons, and in particular at the high rate of violence against transgender persons. It recommended that the Dominican Republic adopt laws to prohibit discrimination and hate crimes on grounds of sexual orientation or gender identity. The United Nations country team recommended that the Dominican Republic promote and protect the human rights of lesbian, gay, bisexual, transgender and intersex persons by advancing the affirmative action measures, public policies and legislation necessary to combat structural discrimination against persons belonging to this group.

## Summary of Stakeholder's Information

9. JS5<sup>7</sup> recommended that the Office of the Ombudswoman observe secularism in all public engagements, run an information campaign about its mandate, recruit technically qualified staff and establish an office for gender equality and development. Joint Submission 10 (JS10<sup>8</sup>) recommended that the Office hold consultations with civil society organizations working on lesbian, gay, bisexual and trans (LGBT) rights and that it set up a unit or appoint focal points for discrimination issues.

10. Joint Submission 11 (JS11<sup>9</sup>) recommended that the Dominican Republic promulgate the National Human Rights Plan, which should include an updated calendar for effective implementation, by the end of the year. In addition, JS7<sup>10</sup> recommended that it mainstream LGBT issues.

16. JS7 noted that the human rights of LGBT persons were continually being violated owing to a lack of awareness and entrenched social prejudice. JS9<sup>11</sup> noted that LGBTI persons experienced discrimination in access to services, including housing, employment, education and health care.

17. With regard to recommendation 98.42, JS10 noted the disinclination of the legislative bodies to table bills recognizing the rights of and addressing discrimination against LGBTTIQ persons. JS9 and JS10 recommended that the Dominican Republic adopt a law on gender identity.

19. JS7, JS9 and AI<sup>12</sup> raised the issue of violence motivated by sexual orientation and gender identity, with an emphasis on trans women. JS9 added that lesbians and trans persons faced the threat of gender-based violence and so-called “corrective” rape.

20. JS7 recommended that the Dominican Republic include hate crimes motivated by sexual orientation or gender identity in the draft Criminal Code. JS9 and AI recommended that it take the measures necessary to prevent, investigate and punish acts of violence motivated by sexual orientation or gender identity. JS10 recommended that it devise a national campaign on the prevention of violence against the LGBTTI population.

21. Regarding recommendation 98.41, JS10 reported that LGBTTIQ persons had filed complaints of arbitrary detention by the police and investigative authorities with the Office of the Human Rights Advocate.<sup>36</sup>

26. JS7 noted that the authorities of the Dominican Republic lacked the capacity to ensure justice for vulnerable groups, in this case trans women. The police, doctors and State officials exhibited intolerant, prejudiced attitudes and were unaware of the rights of LGBT persons.

<sup>7</sup> Joint Submission 5 submitted by Centro de Solidaridad para el Desarrollo de la Mujer, CE-MUJER; Colectiva Mujer y Salud; Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer-República Dominicana (CLADEM-RD); Núcleo de Apoyo a la Mujer (NAM), Save The Children Dominicana (SCRD). (Dominican Republic).

<sup>8</sup> Joint submission 10 submitted by: Diversidad Dominicana (DIVERDOM), Coordinadora Lesbica a de Hombres Trans; Gente Activa y Participativa (GAY); Fundacion Comunidad y Justicia Internacional (FUNJECI); Comunidad de Lesbianas Inclusivas Dominicanas (COLESDOM); Centro de Estudios Biopsicosociales (CEB LGBT) (Dominican Republic).

<sup>9</sup> Joint submission 11 submitted by: Dominicans for Justice and Peace, Acción Verapaz, Radio Seybo, Ciudad Alternativa, CasaYa, Centro Antonio Montesinos and Seibanos sin Techo del Callejón Matencio (Dominican Republic).

<sup>10</sup> Joint submission 7 submitted by: Trans Siempre Amigas (TRANSSA); Observatorio Derechos Humanos Grupos Vulnerabilizados (Dominican Republic);

<sup>11</sup> Joint submission 9 submitted by: Fundación Comunidad Esperanza y Justicia Internacional, Inc. (FUNCJEI) Centro de Estudios Biopsicosociales LGBT (CEB-LGBT) (Dominican Republic);

<sup>12</sup> Amnesty International

27. JS7 reported that there were very few complaints of violence against LGBT persons owing to the insufficient training of police officers and prosecutors, which also caused utter mistrust of the justice system and the authorities responsible for the administration of justice. JS9 recommended that specialized training be provided to law enforcement

55. JS7 submitted that it was of utmost concern that the health-care system did not provide hormonal or gender affirming treatments for trans persons. JS9 recommended that the Dominican Republic improve the health and well-being of lesbian, gay, bisexual, transgender and gender non-conforming persons. JS10 recommended that it design public policies that addressed the sexual and reproductive health needs of LGBTTI women.

58. JS7 reported that the right of trans women to education was limited by the discrimination that they encountered on a daily basis, both from their peers and from teaching staff. JS7 recommended that the Dominican Republic adopt protocols and/or public policies to combat bullying on grounds of sexual orientation and gender identity. JS9 recommended that the State should devise educational policies aimed at eradicating social and cultural biases, misconceptions and prejudice against members of the LGBTI community.

## **B. SOGIESC Advanced Questions for Dominican Republic**

- **United States of America:** Since 2015 NGOs recorded more than 150 violent attacks, including some by security forces, and arbitrary arrests against LGBT individuals. What measures is the Government of the Dominican Republic taking to ensure security forces and judicial officials are adequately trained to prevent, investigate, and prosecute abuses committed against LGBT individuals? What steps is the government taking to prevent discrimination against LGBT persons in the provision of government services?

## **C. Dominican Republic's Working Group Session**

N/A

## **D. Recommendations for Cycle III (2019)**

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

- **Montenegro:** Montenegro noted concerns of several treaty bodies at reported systematic and continued racial discrimination, violence and assault against minorities, LGBTI persons, human rights defenders and journalists.
- **Netherlands:** The Netherlands would also like to raise attention to discrimination against LGBTI persons.
- **Switzerland:** Switzerland is concerned with discrimination and violence against LGBTI persons.

**b) The following recommendations have been examined by Dominican Republic and enjoy its support:<sup>13</sup>**

- **Argentina:** Continue taking measures aimed at combating discrimination against LGBTIQ persons, in particular through awareness raising campaigns among security forces and through investigation and punishment of acts of discrimination and violence towards them (6.61).
- **Australia:** Enact comprehensive anti-discrimination legislation which includes, inter alia, sexual orientation and gender identity as protected characteristics (6.54).
- **Canada:** Implement policies and programs to prevent discrimination based on sexual orientation or gender identity, including by ensuring that medical workers and police respect the rights, protect the health, and ensure the safety of LGBTI individuals (6.60).
- **Iceland:** Promote and protect the human rights of LGBTI persons and combat structural discrimination (6.63).
- **Netherlands:** Adopt legislation protecting LGBTI persons against violence and discrimination in Dominican society (6.64).
- **Portugal:** Adopt laws to prohibit discrimination and hate crimes on grounds of sexual orientation or gender identity and implement public policies, including awareness campaigns and human rights training for the security forces, to combat structural discrimination against LGBTI persons (6.65).
- **Spain:** Punish administrative delays or other forms of inaction that lead to impunity for crimes and violence against women, children and the LGBTI collective (6.82).
- **Switzerland:** Ensure that killings of LGBTI persons are investigated in an independent and impartial manner and develop, in collaboration with civil society organizations, an anti-discrimination legislation in accordance with international law (6.75).

**c) The following recommendations have been examined and noted by Dominican Republic:**

- **Mexico:** Adopt a general law on equality and non-discrimination that prohibits discrimination based on sexual orientation and gender identity, and that guarantees equal access to justice and to sexual and reproductive health rights (6.55).
- **France:** Combat discrimination on grounds of sexual orientation or gender identity (6.62).

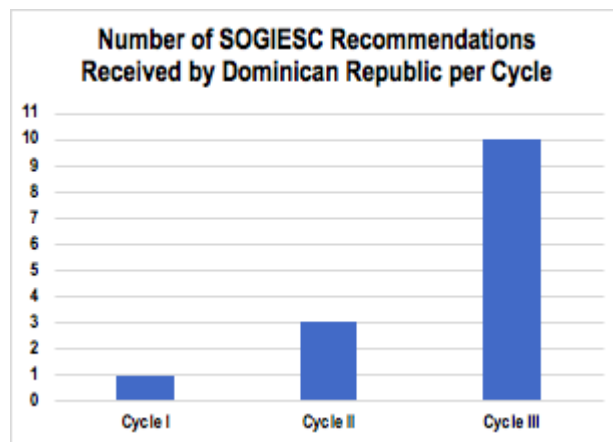
**E. Recommendations for Cycle II (2014)**

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Take the necessary measures to prevent arbitrary detentions based on discriminatory criteria of any kind, particularly those related to phenotype or those directed against LGBT persons	Mexico	Accepted
Adopt legislation to protect LGBT persons against gender-based violence and discrimination	Netherlands	Accepted

<sup>13</sup> The following LGBTI-hostile recommendation was made by Egypt: "Protect and support the family, as it is the natural and fundamental unit for achieving social cohesion (6.95)"

Strengthen its efforts and establish and implement policies and measures to address discrimination based on sexual orientation and gender identity	Norway	Accepted
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#### F. Graphic Comparison Between Cycles (1—3)



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

#### H. [SOGIESC Mentions During Dominican Republic's UPR Outcome](#)

- **Opening remarks:** The Executive is now working to develop a preliminary draft on a general law on equality and non-discrimination in order to provide our country a normative instrument to guarantee equality for all persons including those groups that could be discriminated against on the basis of sexual orientation and gender identity.

**ERITREA**  
**UPR SOGIESC RECOMMENDATIONS**

**DATE AND TIME OF THE REVIEW: 28 JANUARY 2019, 14:30 – 18:00**

**DATE AND TIME OF THE ADOPTION OF THE REPORT: 31 JANUARY 2019, 16:30 – 18:00**

During the 32nd UPR Working Group Sessions, Eritrea received 1 SOGIESC recommendations. It noted the recommendation.

**A. SOGIESC Information**

**National Report**

N/A

**Compilation of UN Information**

12. The Committee on the Rights of the Child stated that the criminalization of consensual same-sex conduct in the transitional penal code encouraged stigmatization of and discrimination against lesbian, gay, bisexual and transgender persons. It recommended that Eritrea repeal the provisions that criminalized homosexuality.

**Summary of Stakeholder's Information**

N/A

**B. SOGIESC Advanced Questions for Eritrea**

N/A

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

N/A

**D. Recommendations for Cycle III (2019)**

**a) Remarks of States**

N/A

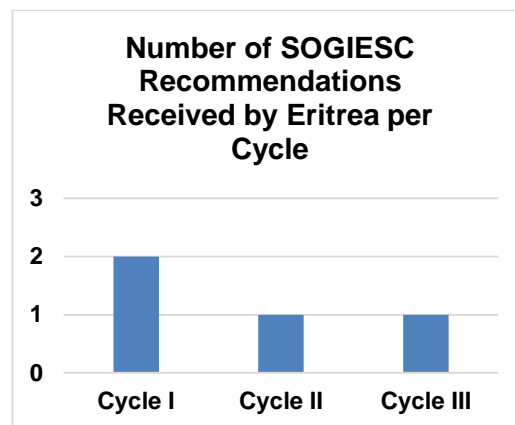
**b) The following recommendations have been examined and noted by Eritrea**

- **Iceland:** Repeal provisions that criminalize homosexuality (6.134)

#### E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Launch a national dialogue, as well as a campaign through media and in the schools, to tackle all forms of discrimination against lesbian, gay, bisexual and transgender (LGBT) persons	Italy	Noted

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



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

#### H. [SOGIESC Mentions During Eritrea's UPR Outcome](#)

N/A

## NEW ZEALAND UPR SOGIESC RECOMMENDATIONS

**DATE AND TIME OF THE REVIEW: 21 JANUARY 2019, 09:00 – 12:30**  
**DATE AND TIME OF THE ADOPTION OF THE REPORT: 25 JANUARY 2019, 15:00-18:00**

During the 32<sup>nd</sup> UPR Working Group Sessions, New Zealand received 5 SOGIESC recommendations. It accepted 3 recommendations and noted 2 of them.

### A. SOGIESC Information

#### National Report

78. The need for improved mental health services, particularly for young people, men, ethnic communities and the LGBTIQ community, was a strong theme during UPR consultations.

103. In February 2018, Prime Minister Ardern announced the establishment of a Royal Commission of Inquiry into historical abuse in state care. Consultation on the Commission's Terms of Reference is currently underway and will include consideration of impacts on specific groups, including Māori, Pacific and LGBTIQ communities. Some participants at UPR consultations wanted to see the Commission's scope broadened to include religious institutions and community groups.

104. In preparing this report, the Government placed a strong focus on the views of young people. During consultations, students identified practical suggestions to improve the human rights of young New Zealanders. These included lowering the minimum voting age; reducing class sizes; raising the minimum wage; addressing privacy concerns online; and improving housing quality for families through building innovative apartments. Other issues that students identified as impacting on young New Zealanders included discrimination based on gender, race, or sexual orientation, access to dedicated mental health services (including suicide prevention), family violence, and housing affordability. The Government is committed to improving the rights of young New Zealanders and will continue to engage with them in the UPR process.

151. While no sexual orientation or gender identity issues were reflected in the 2015 UPR recommendations, the Government indicated its intention to address these. There remains an elevated risk of mental health issues and suicide risk in New Zealand's LGBTIQ population. Discrimination against LGBTIQ people was raised during UPR consultations, particularly by young people.

152. Variable access to quality and targeted health services remains an issue for the LGBTIQ community in New Zealand, although some progress is being made. Work is underway to improve gender-affirming treatment for gender-diverse New Zealanders and to reduce the long waiting list for access to surgery. An intersex clinical pediatric network is being developed to improve the clinical experience for intersex patients, and New Zealand is an early adopter of funding a pre-exposure treatment for people most at risk of HIV infection.

153. The experience of transgender people in prison can be problematic, despite a policy change in 2014 aimed at broadening the criteria used to determine gender identity and ensuring appropriate prison assignment. The Government has introduced a new policy for the safe management of transgender prisoners. The policy is underpinned by four principles – that transgender prisoners’ management will be individualised; seek to ensure their safety, dignity and privacy; enable them to maintain their gender identity while in prison; and not be solely determined by whether they are placed in a prison which aligns with their gender identity.

154. In 2016, the Ministry of Education released guidance for schools on supporting the inclusion and wellbeing of LGBTIQ students, providing practical strategies for developing school cultures where all students are safe, included, visible and valued.

155. The Minister of Statistics recently announced that sexual orientation and identity questions will be a priority for the 2023 national census. Obtaining data regarding these minority groups will enable better targeting of services to meet their health and social needs.

### Compilation of UN Information

13. The Committee on the Elimination of Discrimination against Women was concerned that discrimination on the grounds of gender identity, gender expression or sex characteristics was not specifically prohibited.

14. The Committee on the Rights of the Child recommended that New Zealand strengthen its measures to combat negative attitudes among the public and other preventive activities against discrimination and, if necessary, take affirmative action for the benefit of children in vulnerable situations, such as Maori and Pasifika children, children belonging to ethnic minorities, refugee children, migrant children, children with disabilities, and lesbian, bisexual, gay, transgender and intersex children.

### Summary of Stakeholder’s Information

68. JS15<sup>14</sup> reported that between 2002 and 2016, there were 1,758 deaths due to suicide, making it the leading cause of death in adolescents and recommended that New Zealand prioritise efforts to address and prevent youth suicide. OCC<sup>15</sup> noted that suicide rate of Māori young people was 2.8 times higher than that of non-Māori youth. JS16<sup>16</sup> stated suicide rates among the LGBTI+ population was significantly higher than the broader population and yet the Government’s draft strategy to prevent suicide did not specifically address risk factors for this population.

## **B. SOGIESC Advanced Questions for New Zealand**

N/A

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<sup>14</sup> Joint Submission 15 submitted by: Children's Rights Coalition for UPR 3 Aotearoa Wellington (New Zealand), Action for Children and Youth Aotearoa (ACYA), Child Poverty Action Group (CPAG), Save the Children NZ IHC Barnardos CCS Disability Action Child Matters YouthLaw New Zealand Nurses Organisation Tōpūtanga Tapuhi Kaitiaki o Aotearoa (NZNO) NZEI Te Riu Roa OMEP Aotearoa New Zealand Peace Movement Aotearoa The Public Health Association of New Zealand Royal New Zealand Plunket Trust Safeguarding Children Tiakina ngā tamariki Stand Children’s Services Tu Maia Whanau UNICEF New Zealand University of Otago Children’s Issues Centre Wesley Community Action;

<sup>15</sup> Office of the Children's Commissioner

<sup>16</sup> Joint Submission 5 submitted by: : Pacific Women's Watch, Auckland, New Zealand, Māori Women's Welfare League, Shakti Community Council Inc., Disabled Women;

### C. New Zealand's Working Group Session

- **Opening remarks:** (...) Our LGBTQI community, new migrants to New Zealand, and the many New Zealanders living with disabilities also face discrimination and challenges that many of us do not. For example, our LGBTQI community encounters higher levels of violence. Disabled people in New Zealand have less access to paid employment but higher living costs. Also, while New Zealand has been held up as a leader in gender equality, women are still not on an equal footing with men in our society. (...) We are taking substantial actions to address inequity and discrimination. We are looking closely at inequities in mental health for Māori and other groups. We are reviewing our criminal justice system, with a focus on the disproportionate representation of Māori, and the role that colonisation, structural discrimination, and intergenerational trauma have played in that. We plan to specifically acknowledge gender identity, in addition to sex, as a prohibited ground of discrimination in our law. We are currently exploring ways to reduce violence, abuse and neglect of disabled people.  
(...) One in three women in New Zealand experience physical, emotional or sexual violence from a partner in their lifetime. Women are twice as likely to suffer partner abuse than men. Māori women, queer women, trans women, women living with a disability and young women experience more violence, and are more likely to be re-victimised by current systems.
- **Closing remarks:** The government has a plan to review its human rights act with specific intention to amend the counter-discrimination provisions in the grounds of sex discrimination to ensure that law is clear that it includes prohibition of discrimination on grounds of gender identity.

### D. Recommendations for Cycle III (2019)

#### a) Remarks of States

- **Iceland:** We welcome the efforts made by New Zealand in the advancement of human rights. We are pleased with our cooperation on the advancement of gender equality, protection of the rights of LGBTI persons, as well as persons with disabilities and welcome developments articulated in the national report.
- **United Kingdom:** We note that child poverty, family violence, housing and LGBT rights are areas of concern, and that these areas have been identified by New Zealand as human rights priorities for focused effort. We encourage the Government to engage constructively with the findings of the Royal Commission on Mental Health and Addiction.
- **United States:** We underscore the efforts that New Zealand has made to advance the human rights of LGBTI persons globally and encourage further efforts to address inequality.
- **Australia:** Australia commends New Zealand for its commitment to end discrimination based on sexual-orientation and gender identity.

#### b) The following recommendations have been examined by New Zealand and enjoy its support:

- **Madagascar:** Take strong measures to eliminate discrimination against women and discrimination based on gender identity (6.50)

- **Uruguay:** Continue efforts for the adoption of additional measures to address the disparities registered by the sexual orientation, gender identity and sex characteristics community with regard to access to services in the entire health system (6.101);
- **Chile:** Consider putting an end to non-consensual medical procedures which affect intersex persons (6.102).

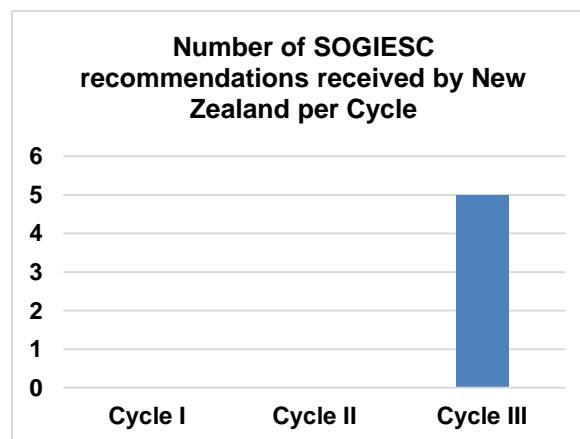
**c) The following recommendations have been examined and noted by New Zealand:**

- **Iceland:** Add gender identity, gender expression or sex characteristics as specifically prohibited grounds of discrimination in Article 21 of the Human Rights Act of 1993 (6.51)
- **Australia:** Amend the Human Rights Act of 1993 to explicitly prohibit discrimination on the basis of gender identity and intersex status (6.101)

**E. Recommendations for Cycle II (2014)**

N/A

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



**G. [Video of New Zealand's UPR Working Group Session](#)**

**H. [SOGIESC Mentions During New Zealand's UPR Outcome](#)**

- **Opening remarks:** New Zealand is considering reviewing its Human Rights Act in order to include gender identity as prohibited grounds for discrimination. (...) The government is in the process of implementing transgender policies. New Zealand will consider amending our Human Rights Act to include gender identity in the Human Rights Act as a prohibited ground of discrimination. We have however noted the recommendation because a government decision has yet not been made to make specific modifications on legislation.
- The areas in which New Zealand will show leadership in international advocacy include gender equality and women's empowerment, the rights of persons with disabilities, sexual orientation and gender identity and abolition of death penalty.
- **NHRI:** Our pacific people, our rainbow community, new migrants to New Zealand and many disabled new Zealanders also face direct discrimination and structural barriers to social inclusion.

## **SLOVAKIA**

### **UPR SOGIESC RECOMMENDATIONS**

**DATE AND TIME OF THE REVIEW: 28 JANUARY 2019, 09:00 – 12:30**

**DATE AND TIME OF THE ADOPTION OF THE REPORT: 31 JANUARY 2019, 16:30 – 18:00**

During the 32nd UPR Working Group Sessions, Slovakia received 10 SOGIESC recommendations. It accepted 9 recommendations and noted 1.

#### **A. SOGIESC Information**

##### **National Report**

14. The Crime Victims Act (Victims Act), effective as of 1 January 2018 provides for the rights, support and protection of crime victims, the relationship between the state and entities providing assistance to victims, and for financial compensation for victims of deliberate violent crime. It introduces the concepts 'victim', 'particularly vulnerable victim', 'secondary and repeated victimisation' and 'domestic violence crimes' into the legal system. Every person who claims that he or she is a crime victim is considered a victim under this Act until it is proven otherwise or unless it is an apparent case of abuse of the status of victimhood, regardless of whether the perpetrator of the crime has been identified, arrested, faces prosecution or has been convicted. The rights granted by this Act are exercised without any discrimination based on sex, religion or belief, race, belonging to a nationality or ethnic group, health status, age, sexual orientation, colour, political or other opinion, ethnic or social origin, wealth or other status. Entities which, by virtue of their authority or activities, influence or may influence the status or the situation of a victim shall treat victims considerately, professionally, with respect and, as far as possible, charitably, while taking into account their age, sex, health status, including mental health, and mental maturity in a manner which avoids increasing the harm caused to the victim by the crime, as well as secondary victimisation. The Act grants victims the right to be provided professional assistance according to their specific needs and to the extent appropriate to the harm caused by the crime, especially by being provided an adequate explanation of information, legal assistance to exercise their rights, psychological support to lessen the effects of the crime, counselling regarding the risk and prevention of repeated victimisation, intimidation and retaliation. A particularly vulnerable victim has, under the conditions set out in the Act, the right to be provided free assistance, professional psychological emergency intervention, emergency accommodation in a crisis care home, if a particularly vulnerable person faces a direct risk to life or health. A victim also has the right to be protected against secondary or repeated victimisation.

15. The adoption of the Victims Act also resulted in amending the provisions of CC laying down a special motive (§140). In the case of selected criminal offences, having the characteristics of a special motive warrants the use of heavier sentences. The previous provisions related to special motive in §140e established that a criminal offence is committed out of a special motive if it is committed out of hatred towards a group of persons or an individual for their actual or assumed membership of a race, nation, nationality, ethnic group, for their actual or assumed origin, colour, sexual orientation, political opinion or religion. The amendment to the CC also added sex to the definition of a reason for hatred. Changes to the CP extended the principles of criminal proceedings,

introduced new provisions for informing obligations in relation to an aggrieved person and witness, strengthened the position of an aggrieved person (victim) in criminal proceedings and laid down the conditions of conducting interrogation taking into account the needs of victims, especially children, and finally, restricted the use of the instrument of confrontation.

17. Crimes of extremism are: the crime of establishing, supporting and promoting a movement leading to the suppression of fundamental rights and freedoms, expressing affinity to a movement leading to the suppression of fundamental rights and freedoms, producing extremist materials, keeping extremist materials, denying and approving of the holocaust, the crimes of political regimes and crimes against humanity, defaming a nation, race or belief, inciting hatred towards a nationality, race or ethnic group, apartheid and discrimination against a group of persons, and crimes committed out of hatred towards a group of persons or an individual for their actual or assumed membership of a race, nation, nationality, ethnic group, for their actual or assumed origin, colour, sex, sexual orientation, political opinion or religion. In the case of certain crimes, the Act states that a heavier sentence shall be used if a perpetrator commits one of these crimes as a public figure.

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

16. The Human Rights Committee was concerned about the increasingly hostile environment against persons on the basis of their actual or perceived sexual orientation, gender identity or expression, which was exacerbated by hostile discourse from political figures. The Committee recommended that Slovakia, inter alia, eradicate all forms of social stigmatization of homosexuality, bisexuality or transsexuality and discrimination, and violence against persons based on their sexual orientation or gender identity.

17. The Committee was concerned that sterilization for both transgender women and men was required for legal gender recognition. The Committee on the Elimination of Discrimination against Women urged Slovakia to abolish the requirement of compulsory sterilization and surgery for transgender women who wished to obtain legal recognition of their gender. The Human Rights Committee urged Slovakia to develop and implement a legal gender recognition procedure compatible with the provisions of the Covenant.

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

23. The CoE-Commissioner commended the progress made in the past few years by Slovakia in strengthening the policy and institutional framework for the promotion and protection of the human rights of lesbian, gay, bisexual and intersex (LGBTI) persons. However, the CoE-Commissioner was worried at the growing negative rhetoric and hate speech directed against LGBTI persons in recent years.

24. The CoE-Commissioner urged the authorities to extend the provisions of domestic hate speech legislation to cover sexual orientation, gender identity and sex characteristics. He called on Slovakia to ensure that law enforcement officials and legal professionals are adequately equipped to recognise and effectively confront such incidents.

25. Furthermore, the CoE-Commissioner urged the authorities to take a strong public position against violations of the human rights of LGBTI persons and promote respect on issues related to

sexual orientation, gender identity and sex characteristics, for example through systematic human rights education and awareness-raising campaigns.

26. The CoE-ECRI reported that there was no adequate access to gender reassignment treatment, although this was required by law in order to change name and identification number. The CoE-ECRI recommended that Slovakia ensure that gender reassignment treatments are made available for transgender persons and that their cost is reimbursed by public health insurance schemes.

27. The CoE-Commissioner called on Slovakia to improve the protection afforded to trans and intersex persons, including intersex children. Attention should be paid to countering unlawful practices imposing medical interventions and non-marriage requirements for the official recognition of gender reassignment. He urged the authorities to set up strong, explicit guarantees protecting intersex children from unnecessary surgical procedures aimed at assigning them a sex without their free and informed consent.

28. The CoE-Commissioner invited the authorities to consider favourably the possibility of providing cohabiting different sex and same-sex couples with legal means to address the practical problems related to the social reality in which they live.

## B. SOGIESC Advanced Questions for Slovakia

- **Sweden:** Sweden is concerned that the Government of the Slovak Republic abandoned its plan to adopt a National Action Plan for LGBTI Equality in 2016. What measures are being taken to ensure equal enjoyment of human rights and freedom from discrimination for LGBTI persons?
- **Germany:** What measures has the Government of Slovakia taken in order to ensure the legitimate needs of LGBTI-people?

## C. Slovakia's Working Group Session

- **Opening remarks:** (...) criminal offences of extremism including the prosecution of defamation of a nation, race and belief, as well as inciting to violence based on race, origin, nationality, skin colour, ethnicity, sexual orientation or religion were broadened and redefined.
- **Intervention after 36 interventions:** In the area of promoting equality to LGBTI people, despite the fact that the drafted action plan for LGBTI people was not ultimately adopted, the government, ministries and other institutes continues to support the fulfillment of action points envisaged by the plan. Several action points from the draft plan were already completed, including the inclusion of sexual orientation in bias motive of crimes, ensuring that trans people can receive updated diplomas after the name change and others. Discrimination on the grounds of sexual orientation and gender identity are prohibited and the criminal code also provides for protection against hate crimes and hate speech on grounds of sexual orientation. Expert committee on the rights of LGBTI people was established in 2012, where the representatives of governmental and non-governmental sector continuously work on policies important to achieve equality of LGBTI people. The committee request information from responsible institutions, presents analytical documents and surveys as support for changes of policies important to the LGBTI people.

## D. Recommendations for Cycle III (2019)

### a) Remarks of States

- **Australia:** Australia welcomes Slovakia's efforts to protect the human rights of vulnerable populations including LGBTI peoples under its National Strategy for Human Rights Protection and Promotion.
- **Netherlands:** The Netherlands also commends Slovakia for the positive developments related to the rights of LGBTI persons, including the successful course of this year pride parade, the establishment of a committee on the rights of LGBTI persons and the development of a draft action plan. Despite these developments, however, LGBTI persons still face discrimination and are excluded from the exercise of certain rights based on their sexual identity.
- **Norway:** Norway recognizes Slovakia's acceptance towards same-sex marriages for residency purposes.
- **Sweden:** However, recent developments concerning freedom of expression are a cause for concern. Sweden also takes note that obstacles remain to Roma women's full enjoyment of human rights and equal access to sexual and reproductive health and rights, as well as to LGBTI persons' full enjoyment of human rights.

### b) The following recommendations have been examined by Slovakia and enjoy its support: <sup>17</sup>

- **Australia:** Continue to promote and protect the rights of its LGBTI community (6.69).
- **Chile:** Increase efforts to guarantee the promotion and protection of the human rights of LGBTI persons (6.70).
- **France:** Provide couples of different sexes and same sex couples who live together with the rights that correspond to their situation, for example, in the areas of housing, social assistance and inheritance, in particular by establishing a civil partnership (6.73).
- **Iceland:** Extend the provisions of domestic hate speech legislation to cover sexual orientation, gender identity and sex characteristic (6.76).
- **Mexico:** Undertake efforts to eradicate negative rhetoric and hate speech against the LGBTI persons (6.74).
- **Netherlands:** End discrimination against same-sex couples and legalize the registration of same-sex partnerships (6.72).
- **Norway:** Initiate again a plan to adopt a national action plan on LGBTI equality (6.77).
- **Spain:** Amend the Criminal Code to include specific reference to hate crimes for sexual orientation and that sexual orientation is not considered a ground for disability (6.78).
- **Sweden:** Take concrete policy measures to promote tolerance and non-discrimination based on sexual orientation and gender identity (6.75).

### c) The following recommendations have been examined and noted by Slovakia:

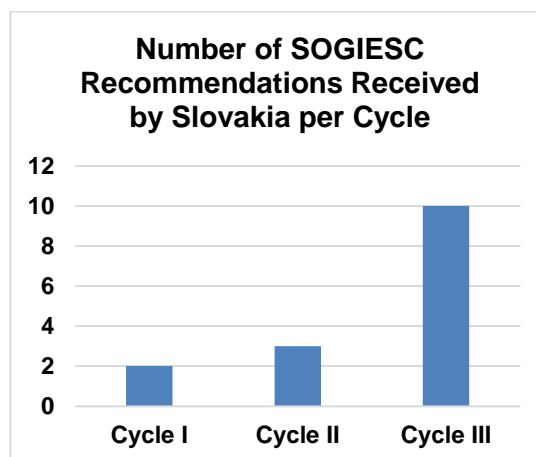
- **Iceland:** Adopt marriage equality legislation, extending full marriage rights to same-sex couples (6.71).

## E. Recommendations for Cycle II (2014)

<sup>17</sup> The following LGBTI-hostile recommendation was made by Egypt: "Preserve the family, and developing it as the fundamental and natural unit for the preservation of the society (6.120)"

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
That a national action plan for the protection of the human rights of LGBTI persons in Slovakia is developed and implemented, within the context of the planned human rights strategy	Norway	Accepted
Step up its efforts towards advancing the specific courses of action taken in its struggle against discrimination such as programmes to fight poverty and social exclusion, the Strategy for Roma Integration up to 2020 and the endorsement of the Committee for the Rights of LGBTI persons, and launch campaigns to promote tolerance and respect for diversity aimed at all segments of society	Brazil	Accepted
Continue to support the rights of the LGBTI community through its human rights framework	Australia	Accepted

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



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

#### H. [SOGIESC Mentions During Slovakia's UPR Outcome](#)

- **Opening remarks:** based on the Slovak constitution and its article 41 which defines marriage as an unique bound between man and women, the Slovak Republic also notes recommendations to adopt marriage equality legislation and to extend full marriage rights to same sex couples.

## THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA UPR SOGIESC RECOMMENDATIONS

**DATE AND TIME OF THE REVIEW: 24 JANUARY 2019, 14:30 – 18:00**

**DATE AND TIME OF THE ADOPTION OF THE REPORT: 29 JANUARY 2019, 16:30 – 18:00**

During the 32<sup>nd</sup> UPR Working Group Sessions, The Former Yugoslav Republic of Macedonia received 14 SOGIESC recommendations. It accepted all 14 recommendations.

### A. SOGIESC Information

#### National Report

2. The said Report resulted in 104 recommendations, of which 98 have been fully accepted, 4 have been partially accepted and 2 recommendations on explicit reference to sexual orientation as grounds of discrimination have not been accepted.

72. The new Law on the Prevention of and Protection against Discrimination is pending parliamentary procedure. The draft law envisages professionalisation of the Commission for Protection against Discrimination and strengthening its functioning, including by establishing a professional service, and also includes a provision on the manner of financing which will contribute to its greater financial independence. The draft law aligns the definitions of direct and indirect discrimination with international standards and expands the list of discriminatory grounds with the grounds of sexual orientation and gender identity.

84. As stated above, the new Law on the Prevention of and Protection against Discrimination is pending parliamentary procedure. The draft law aligns the definitions of direct and indirect discrimination with international standards and expands the list of discriminatory grounds with the grounds of sexual orientation and gender identity.

85. In November 2015, the MoI signed a Memorandum of Cooperation with the Helsinki Committee for Human Rights – LGBTI Support Centre, which aimed to enable improvement of the cooperation on preventing and dealing with hate crime and hate speech on the grounds of sexual orientation and gender identity. The Memorandum defined the forms and manner of cooperation between the Ministry and the Helsinki Committee for Human Rights on preventing and dealing with hate crime and hate speech on grounds of sexual orientation and gender identity and sensitisation of police officers for working with LGBT persons.

86. An interparty parliamentary group of 13 MPs that will work on advancing the rights of LGBT persons was formed on 23 February 2018. The group will endeavour to advance the rights of LGBT persons using the available mechanisms of the Assembly of the Republic of Macedonia in order to build a society where sexual orientation and gender identity will not pose an obstacle to full enjoyment of human rights and freedoms.

87. An annual conference of the LGBTI Equal Rights Association for Western Balkans and Turkey was held in Skopje, from 3 to 6 October 2018. It was organised in cooperation with the MLSP and was

supported by the Ministry of Foreign Affairs. As part of the event, a ministerial segment was also organised and attended by the ministers of the Region, who were hosted by the Minister of Labour and Social Policy of the Republic of Macedonia.

### Compilation of UN Information

19. The Special Rapporteur on the situation of human rights defenders expressed her concern regarding the physical and psychological integrity of those working and advocating for the rights of lesbian, gay, bisexual, transgender and intersex persons and working to promote equality and non-discrimination, particularly in exercising their right to freedom of opinion and expression and of peaceful assembly.

### Summary of Stakeholder's Information

26. CoE<sup>18</sup> welcomed proposed amendments to the law against discrimination that would extend the list of grounds of discrimination to include sexual orientation and gender identity and strengthen the functioning of the Commission for the Protection against Discrimination.

35. CoE stressed the importance of effectively investigating and prosecuting hate crimes, including against journalists and LGBTI people.

## **B. SOGIESC Advanced Questions for The Former Yugoslav Republic of Macedonia**

- **United Kingdom:** How will the Government ensure the proper and full use of legislation on hate crime, and that open investigations into previous hate crime attacks, including against the LGBTI community, are completed?
- **Belgium:** Which concrete measures will the government of the former Yugoslav Republic of Macedonia undertake to prevent and monitor hate speech based on gender, race or sexual orientation and to guarantee such crimes are prosecuted?

## **C. The Former Yugoslav Republic of Macedonia's Working Group Session**

- **Opening remarks:** Macedonia underwent the second cycle of the UPR process in 2014, resulting in 104 recommendations of which 98 have been fully accepted, 4 have been partially accepted and 2 recommendations on the explicit reference to sexual orientation as ground of discrimination in the law on the protection against discrimination have not been accepted. However, in our report we have indicated that the current government has a different view on this issue and included sexual orientation and gender identity as grounds for protection against discrimination in the draft law which is standing adoption in our parliament.
- With regards to the attacks against members of the LGBT community. A question raised by the UK delegation. Out of a total of 4 registered cases, as to this point the following 2 are still being pursued: attack which took place in 23<sup>rd</sup> October 2014 and arson attack on the LGBT support center. In two separate incidents taking place in 17 December 2012 and 15<sup>th</sup> July 2013, all measures to investigate these two cases have been taken but no perpetrators have been identified in both to date. As to the coalition sexual and health rights of marginalized communities and the LGBT support center filed two separate charges to the

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<sup>18</sup> The Council of Europe.

public prosecutor offices on the grounds of insults and threats against members of the LGBT community on their facebook pages. The public prosecutor office declined to process one, the other one is currently in process. As mentioned previously, the new law on the prevention and protection against discrimination which is currently in parliamentary procedures, introduces sexual orientation and gender identity as grounds of discrimination. Taking into consideration that in the judgment passed on 17<sup>th</sup> January 2019 European Court of Human Rights established serious deficiencies of the legislation current in force in the country when it comes to recognizing gender identities of trans persons. The adoption of this new law, which is currently in procedures, will provide initial steps towards overcoming the deficiencies established in the legal regulation of the country in this respect.

- **Remarks made after 20 interventions:** I would like to again conclude on the aspects of prosecuting organized crime against LGBTI. In this context I would like to report that in 2018, in November 2018, amendments were adopted to the criminal code of Republic of Macedonia, which are aimed at efficiently preventing hate crimes. These amendments ensure the introduction of a definition of hate crime and incorporated in to definitions of separate crimes and offenses making them harder, heavier crimes.

#### D. Recommendations for Cycle III (2019)

##### a) Remarks of States

- **Australia:** Australia commends the commitment of the former Yugoslav Republic of Macedonia to human rights and the progress it has made since its last review in 2014, in particular support for freedom of expression and the media, as well as steps taken to strengthen the protections afforded to LGBTI persons.
- **Austria:** In the area of LGBTI rights, the new political leadership showed courage and publicly and unequivocally supported the struggle of LGBTI persons for equality. However, the Law on Prevention and Protection against Discrimination, although announced for some time, has yet to be adopted.
- **Belgium:** We believe, however, that there are still challenges in the area of press freedom and anti-discrimination, including discrimination against women, Roma communities and LGBTI people.
- **Germany:** We welcome the efforts in regards to the rights of LGBTI persons in the FYR Macedonia and the Government's demonstration of support to the LGBTI community.
- **Iceland:** Iceland welcomes proposed amendments to the law against discrimination which would extend the list of grounds of discrimination to include sexual orientation and gender identity.
- **Ireland:** Ireland is concerned with the lack of attention being paid to discrimination on the grounds of sexual orientation and gender identity.
- **Netherlands:** The Netherlands commends the FYRM for the establishment of the Special Parliamentary Advocacy Group for LGBTI issues. However, discrimination based on gender and sexual orientation remains a concern. The new anti-discrimination legislation presented to parliament in July last year has not been adopted yet.
- **Spain:** We celebrate the legal recognition of gender identity by the Administrative Court. However, many transgender people continue to be subject to discriminatory or violent acts.

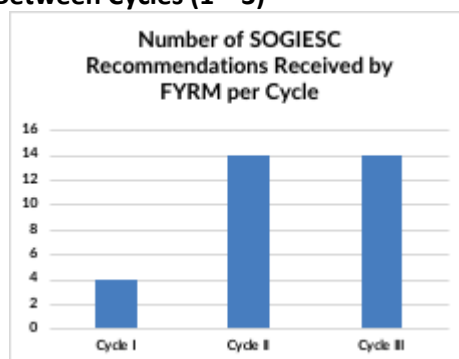
- **Slovenia:** We especially welcome the implementation of the UPR recommendations on right to education as well as on sexual orientation and gender identity in the non-discrimination legislation.
- **Uruguay:** Uruguay congratulates the former Yugoslav Republic of Macedonia for the approval of the National Action Plan for Gender Equality 2018-2020 and the Strategy for Roma 2014-2020, as well as the proposed amendments to the Law against Discrimination that extended the list of grounds for discrimination to include sexual orientation and gender identity.
- **The following recommendations have been examined by The Former Yugoslav Republic of Macedonia and enjoy its support:**
  - **Canada:** Take further steps to effectively investigate and prosecute hate crime and hate speech against vulnerable groups, including LGBTI persons (6.39).
  - **Canada:** Address discrimination against women and LGBTI persons, including by removing discriminatory references to gender and gender identity in high school and university textbooks (6.40).
  - **Chile:** Investigate and prosecute hate crimes perpetuated against LGBTI persons (6.41).
  - **Estonia:** Take further steps to eradicate discrimination based on sexual orientation (6.42).
  - **France:** Strengthen the rights of LGBTI people (6.43).
  - **Iceland:** Effectively investigate and prosecute hate crimes, including against journalists and LGBTI persons (6.44).
  - **Italy:** Take appropriate measures to prevent and combat all forms of discrimination and to align the national anti-discrimination legislation with the international standards, in particular by increasing efforts to protect the LGBTI people (6.45).
  - **Lithuania:** Fight hate speech, both online and offline, and hate crimes against minorities, including Roma and LGBTI community, by adopting legislation based on international human rights standards (6.46).
  - **Ireland:** Take all steps to ensure that legislation prohibiting discrimination on the basis of sexual orientation and gender identity is fully implemented (6.47).
  - **Netherlands:** Swiftly and without further delay, adopt the new anti-discrimination legislation aimed at protecting against discrimination based on sexual orientation and gender identity (6.48).
  - **Spain:** Modify the Law of Protection against and Prevention of Discrimination with a view to expressly prohibiting discrimination on the grounds of sexual orientation and gender identity (6.49).
  - **Switzerland:** Continue its efforts to eliminate all discrimination, by adopting the draft amendment law against discrimination and by prosecuting hate crimes, in particular against LGBTI communities (6.50).
  - **Belgium:** Speed up the adoption of the draft law on the prevention of discrimination and the protection against this phenomenon and explicitly prohibit discrimination based on grounds of sexual orientation and gender identity (6.51).
  - **Uruguay:** Redouble efforts to fight against discrimination for reasons of gender, ethnicity, sexual orientation, gender identity or for any other reason (6.60).

## E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Immediately step up its efforts to eliminate all forms of discrimination based on ethnic origin, religion, gender and sexual orientation	Switzerland	Accepted
Take concrete measures to strengthen the legislation to combat all forms of discrimination, including those related to sexual orientation, and step up new awareness campaigns to combat all forms of discrimination, including those based on gender, ethnic origin, sexual orientation or gender identity	Uruguay	Accepted
Strengthen actions to ensure the effective implementation of laws against discrimination, in particular discrimination based on sexual orientation	Argentina	Accepted
Fight impunity for violence against marginalized persons motivated by their ethnicity, religion, or sexual orientation, particularly through an improved awareness of public opinion, and the police and judicial authorities	Belgium	Accepted
Conduct public awareness campaigns to promote tolerance and the principles of equality and non-discrimination including on the basis of sexual orientation and gender identity	Brazil	Accepted
Implement fully and without delay the 2010 anti-discrimination law, by integrating provisions covering discrimination based on sexual orientation	Belgium	Noted
Ensure that discrimination based on sexual orientation and gender identity are specifically included in the Anti-Discrimination Act and related programmes	France	Noted
Align the national anti-discrimination legislation with the European Union standards, in particular in relation to the rights	Italy	Noted

of LGBTI persons		
Explicitly prohibit discrimination on the grounds of sexual orientation, which is not included in the Law on the Prevention of and Protection against Discrimination	Slovenia	Noted
Introduce legislation that explicitly protects LGBT persons from discrimination	Ireland	Noted
Include a specific prohibition of discrimination based on sexual orientation and gender identity in line with international standards in the anti-discrimination legislation and take appropriate measures to end impunity for violence and intimidation of the LGBT community	Netherlands	Noted
Adopt measures to prevent incidents of violence on the grounds of sexual orientation	Canada	Noted
Amend anti-discrimination legislation to include sexual orientation and gender identity as specific grounds for discrimination and to open prompt, impartial and effective investigations into attacks on LGBTI individuals or organisations	Austria	Noted
Strengthen anti-discrimination legislation to prohibit discrimination on the basis of sexual orientation and gender identity, and take effective measures to combat violence and discrimination against LGBTI people	Australia	Noted

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



G. [Video of The Former Yugoslav Republic of Macedonia's UPR Working Group Session](#)

H. [SOGIESC Mentions During The Former Yugoslav Republic of Macedonia's UPR Outcome](#)

- **Opening remarks:** On the issue of LGBTI, the new law on prevention of discrimination includes sexual orientation and gender identity as a prohibited ground of discrimination. Furthermore, a number of rule which are part of the social reform includes SOGI and provides mechanisms for protection against discrimination on these grounds. On 29 June the first pride was held and was attend by a number of public officials including members of Parliament and it was held in a peaceful atmosphere. Since 31<sup>st</sup> of May this year North Macedonia has become part of the ERC which is dedicated to advancing human rights of LGBTI persons and promoting development in both members and non-members countries. The min of labor and social policy has organizd a conference on social rights and LGBT people. The Minister of Labor and Social Policy in partnership with the Council of Europe has organized a conference on the advances of rights the LGBTI community in Macedonia which took place in late June 2019. The main aims of the conference were to make concrete conclusions and practical solutions for including the rights of LGBTI persons in the country in different fields and mains fields. From the exchange of experiences and good practices in this respect promoted a declaration promoting a Regional Platform for promotion of the situation of the LBGTI. We are planning to develop a map on advances of the rights of the LGBTI community and to coordinate the signing of the regional declaration of advancements of the rights of the LGBTI community.

## URUGUAY UPR SOGIESC RECOMMENDATIONS

**DATE AND TIME OF THE REVIEW: 23 JANUARY 2019, 09:00 – 12:30**

**DATE AND TIME OF THE ADOPTION OF THE REPORT: 25 JANUARY 2019, 15:00 – 18:00**

During the 32<sup>nd</sup> UPR Working Group Sessions, Uruguay received 5 SOGIESC recommendations. It accepted all the 5 recommendations.

### A. SOGIESC Information

#### National Report

15. Regarding the Civil Code, Act No. 19.075 of 3 April 2013 on equal marriage rights amends the institution of marriage to eliminate any possible discrimination on grounds of sexual orientation or gender identity.

22. In 2018, Act No. 19.580 on gender-based violence against women was approved. The purpose of this Act is to guarantee to all women the right to a life free of gender-based violence, regardless of age, sexual orientation or gender identity (including trans women), socioeconomic situation, territorial affiliation, beliefs, cultural and ethnic-racial origin, or disability. For this purpose it puts in place mechanisms, measures and integrated policies for prevention, care, protection, punishment and redress.

23. It recognizes different types of violence: physical, psychological or emotional, sexual (considering sexual violence to include the involvement of children and adolescents in sexual activities with an adult or with any other person who is in an advantageous situation in relation to them, either because of their age, greater physical or mental development, relation of kinship, affection or trust, or position of authority or power, including sexual abuse, sexual exploitation and the use of pornography), based on prejudice against sexual orientation, gender identity or gender, economic, pecuniary, symbolic, obstetric or employment expression, in the field of education, politics, the media, femicide, street sexual harassment, domestic, community, institutional and racial-ethnic harassment.

39. Since 2012, the State Health Services Administration has run two courses a year on health and sexual diversity for students and graduates in health-related disciplines. These courses have sought to expand the knowledge of students, professionals and technicians on the health needs and problems accessing services of lesbian, gay, bisexual, transgender and intersex people (LGBTI).

66. Act No. 17.677 of July 2003 amended the Criminal Code by criminalizing incitement to hatred, contempt or violence towards one or more persons because of the colour of their skin, their race, religion, national or ethnic origin, sexual orientation or sexual identity. Act No. 18.026 of September 2006 criminalizes public incitement to commit genocide, conspiracy to commit genocide, crimes against humanity or war, and the justification of past events.

71. There continue to be quotas for trans persons in various State programmes.

72. The training provided to police personnel to improve the response to gender-based violence includes the human rights, gender, generational and diversity perspectives. In this regard, the Ministry of Interior has, since August 2016, had a diversity guide “Why a gender and sexual diversity approach in security policies?”, a practical guide for police training.

73. On 3 September 2018, the Sexual Diversity Council presented the first National Sexual Diversity Plan 2018–2020 as a medium- and long-term road map to strengthening the process of recognizing the rights of this community.

74. The general principle of the Plan promotes full citizenship of LGBTI persons, guaranteeing equal enjoyment of rights and opportunities and their social, political, employment, economic and cultural participation and inclusion free of any form of stigma, discrimination or violence.

75. The educational centres of the Technical Vocational Education Council are implementing affirmative action for persons of African descent and trans persons, with, for example, student administration offices, scholarship quotas and other specific assistance measures.

91. In October 2018, Parliament approved the comprehensive Act on trans persons. Its purpose is to ensure the right of trans persons of all ages, of various sexual orientations, socioeconomic conditions, territorial affiliations, national origins, beliefs, cultural and ethnic-racial origins and conditions of disability to a life free of discrimination and stigmatization. To this end, integrated prevention, care, protection, promotion and redress mechanisms, measures and policies are established.

### Compilation of UN Information

11. Several treaty bodies noted the legislative progress related to the rights of lesbians, gay, bisexual and transgender persons. The Human Rights Committee nevertheless urged Uruguay to step up its efforts to combat discrimination against such persons, protect them, investigate all acts of violence motivated by the sexual orientation or gender identity of the victims and prosecute and punish the perpetrators. The United Nations country team said that it was still hard to report stigmatization, discrimination and violence on grounds of sexual orientation and identity and gender expression to the police. The country team also noted that Uruguay was in the process of developing its first national plan on sexual diversity and that the Parliament was currently considering a comprehensive draft bill regarding transsexual people.

15. Some treaty bodies were concerned about the killings of transgender women in the country and the low number of prosecutions and convictions for such killings. Two treaty bodies recommended that Uruguay put an end to those selective killings, protect people from homophobic and transphobic violence and from cruel, inhuman and degrading treatment and investigate the murders of transgender persons.

## Summary of Stakeholder's Information

13. Joint Submission 1 (JS1<sup>19</sup>) said that significant progress had been achieved in terms of protecting the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people, who despite current legislation suffered discrimination on account of their gender identity, their sexual orientation, their gender expression and/or sexual characteristics. Transgender persons in particular, despite legislative advances regarding their identity, lived in a situation of marginality. It recommended that Uruguay should undertake public policies that tackled discrimination towards LGBTI people efficiently and effectively, including through the extension of such offences to the area of civil proceedings.

14. JS1 recommended formulating a National Plan against Discrimination. AI recommended developing a National Plan against Racism and Discrimination that includes actions to prevent and protect against discrimination based on sexual orientation, gender identity and sex characteristics.

18. JS1 referred to the violence against LGBTI persons and its high level of sadism and cruelty.<sup>52</sup> Owing to the lack of a law penalizing all forms of discrimination, in cases of violence against LGBTI persons it is only possible to invoke criminal law offences such as inciting or perpetrating hate crimes, while judges often fail to apply criminal law, so that such offences mostly remain unpunished. AI highlighted that there has been no progress in the investigation of the murders of four transgender women committed in 2012. It recommended approving the Comprehensive Law for Trans Persons, fully investigating the above-mentioned four homicides and bringing those responsible to justice, and establishing a monitoring mechanism for acts of violence towards LGBTI persons. JS1 recommended preventing, combating and penalizing violence towards LGBTI persons and protecting their health and physical integrity, especially in the case of trans women.

41. With regard to sexual and reproductive health, JS4<sup>20</sup> recommended training personnel in key areas such as pregnancies among adolescents and children, contraception, voluntary termination of pregnancy, sexual diversity and gender violence; and developing strategies to create awareness of existing laws and available methods of contraception. JS1 also recommended implementing throughout the public and private health systems a protocol of comprehensive and compulsory care for LGBTI persons in line with international standards; and prohibiting conversion therapies or any other practices that infringe the sexual and reproductive rights of all persons and LGBTI persons in particular.

44. IHRC-OU asserted that it was not clear the steps taken to protect from discrimination within the education system. JS1 referred to the lack of coverage in the classroom of sexual education, especially in the areas of sexual diversity and gender. It recommended ensuring a form of education that was free of discrimination and included full sexual education; and implementing policies to encourage public and private educational establishments to adopt anti-discriminatory measures to prevent any sort of harassment or intimidation against LGBTI persons. JS4 recommended giving effective coverage to sexual and reproductive education in primary and secondary schools that took account of human rights, gender, sexual identity, sexual orientation and racial/ethnic factors.

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<sup>19</sup> Joint submission 1 submitted by: Colectivo Ovejas Negras y la Iniciativa por los Derechos Sexuales (Uruguay).

<sup>20</sup> Joint submission 4 submitted by: Coalición de Organizaciones para el seguimiento del cumplimiento de las Recomendaciones (Comité de América Latina y el Caribe para la Defensa de los Derechos Humanos de las Mujeres (CLADEM), Colectiva Mujeres e Iniciativas Sanitarias) (Uruguay);

## B. SOGIESC Advanced Questions for Uruguay

N/A

## C. Uruguay's Working Group Session

- **Opening remarks:** Likewise, and after the submission of our report, the regulatory framework continued to be strengthened with the approval of the following laws:
  - Law on the promotion of work for people with disabilities.
  - Law on the promotion of development with gender equity.
  - Comprehensive law for trans people.
  - Law of recognition and protection of the stateless person.
- The national frameworks for equality and non-discrimination have also been strengthened, with the approval of the National Plan for Sexual Diversity and the preparation of the National Plan for Racial Equity, which will be presented next March. This has at the same time contributed to the strengthening of the institutional framework for the protection and promotion of human rights, with the creation, by law, of the National Council for Sexual Diversity and the National Council for Racial Equity.
- **Intervention made after 35 interventions:** The national frameworks for equality and non-discrimination have also been strengthened, with the approval of the National Plan for Sexual Diversity and the preparation of the National Plan for Racial Equity, which will be presented next March. This has at the same time contributed to the strengthening of the institutional framework for the protection and promotion of human rights, with the creation, by law, of the National Council for Sexual Diversity and the National Council for Racial Equity.
- **Intervention made after 65 interventions:** In turn, the 19670 law creates the National Councils of Racial Equality and Sexual Diversity. Those who will monitor and monitor both their respective national plans and the laws that refer to their populations, among other tasks. This council will be integrated by representatives of all the ministries, the Judicial Power, the Congress of Intendants, the ANEP, the UDELAR and the organized civil society. With respect to access and protection of educational trajectories from the Ministry of Social Development, affirmative actions have been implemented in conjunction with the ANEP to support Afro and trans students. In addition, within the framework of the National Plan for Human Rights Education, the Rights Promoters Centers strategy was launched in 2017, which will reach 20% of secondary schools this year and has a virtual platform with contents on Gender, Sexual Diversity, Afro-descendant, Disability, Coexistence, Adolescent Health, participation and educational trajectories.

## D. Recommendations for Cycle III (2019)

### a) Remarks of States

- **Germany:** Germany welcomes Uruguay to the UPR. We commend the Government of Uruguay for making significant efforts to integrate human rights into public policy by adopting laws that aim to tackle discrimination, enhance the rights of women ("Ley

integral”) and LGBTI, especially Transgender (“Ley Trans”), and to improve the detention situation in prisons (“Criminal Procedure Code”). Nevertheless, Germany remains concerned about a number of human rights violations that continue to occur.

- **Iceland:** Iceland commends the significant progress made by Uruguay in promoting the rights of LGBTI persons and drastically reducing maternal mortality. We also acknowledge the important achievements made in the field of access to education for women and girls.
- **Ireland:** Ireland acknowledges Uruguay’s efforts to advance human rights domestically and commends progress made since the last UPR cycle, particularly the adoption of law and policy to enhance the rights of women and LGBTI persons.
- **Malta:** Malta welcomes the delegation of Uruguay and thanks it for the presentation of its national report. We commend the Government of Uruguay for the steps it has taken to address discrimination on grounds of sexual orientation and gender identity, most notably the comprehensive act on transgender persons and the government’s efforts to ensure more gender equality in the country.
- **Netherlands:** We complement Uruguay on its continuous efforts to promote the rights for LGBTI persons. Now, it is of paramount importance that Uruguay build on this momentum to advance on gender and SOGI issues, including the successful implementation of SRHR policies.
- **United Kingdom:** The UK welcomes Uruguay’s positive record in promoting freedom of expression and independent media. The UK also welcomes Uruguay’s progressive legislation, particularly in promoting gender equality and LGBT rights.
- **Montenegro:** Several treaty bodies noted the legislative progress related to the rights of LGBT persons. We call Uruguay to step up its efforts to combat discrimination against such persons, protect them, investigate all acts of violence motivated by the sexual orientation or gender identity of the victims and prosecute and punish the perpetrators.

**b) The following recommendations have been examined by Uruguay and enjoy the support of Uruguay<sup>21</sup>**

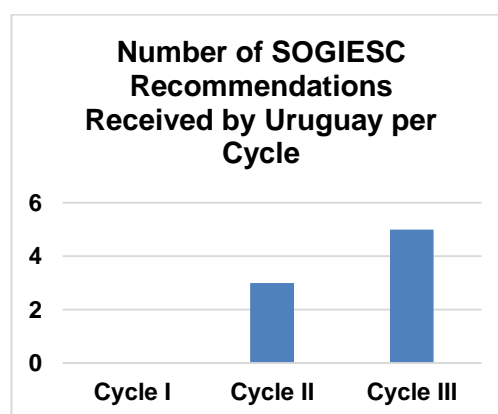
- **Chile:** Continue strengthening efforts, including the allocation of budgetary resources and launching cross-cutting programs, to eradicate all violence and discrimination, in particular against women, persons with disabilities, LGBTI persons, as well as to protect their rights (6.26).
- **Argentina:** Continue with measures aimed at combatting discrimination, in particular by investigating and punishing acts of discrimination and violence against LGBTI persons (6.27).
- **Iceland:** Take all measures to combat discrimination against LGBTI persons, investigate all acts of violence motivated by sexual orientation or gender identity of the victim and bring the perpetrators to justice (6.28).
- **Malta:** Continue efforts aimed at addressing gender-based violence and discrimination against vulnerable groups, including LGBTI persons (6.148).
- **Mexico:** Promote training tools in health and education sectors on sexual and reproductive health and rights of women and girls, such as prevention of early and teenage pregnancy, contraceptive methods, abortion, sexual diversity and prevention of gender-based violence (6.99).

<sup>21</sup> The following LGBTI-hostile recommendation was made by Egypt: "Preserve the family, and developing it as the fundamental and natural unit for the preservation of the society (6.83)"

#### E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Adopt necessary legislative and administrative measures to guarantee the security of LGBT persons and facilitate their access to justice and legal assistance	Norway	Accepted
Continue innovative education programs recognizing sexual diversity and adopt a health policy that further enhances awareness on and sensitizing of sexual orientation and gender issues amongst health personnel	Netherlands	Accepted
Take all necessary policing and other measures to prevent and provide protection against all forms of discrimination, violence and harassment related to sexual and gender identity, and ensure that perpetration of such violence is vigorously investigated and that perpetrators are held accountable	United Kingdom	Accepted

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



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

#### H. [SOGIESC Mentions During Uruguay's UPR Outcome](#)

- **Opening remarks:** With the same level of responsibility and commitment, our country complies with some clarifications regarding some specific recommendations, orally

anticipated responses, and then sent in writing as a report to the Working Group: (...) - The way in which Uruguay conceives the family, in its various formats.

- [Action Canada for Population and Development](#): Regarding the recommendations related to violence and discrimination against LGBTI+ persons, it suggested concrete actions to be taken such as investigating killings of trans persons and guarantee the health and physical integrity of LGBTI+ people. It also called the attention to eliminating early and unnecessary interventions on intersex people and conversion therapies.
- [Amnesty International](#): Welcomed Uruguay's interpretation of recommendation 118.83 on the protection of the family in line with the highest human rights standards and including families formed by same-sex couples and Uruguay's acceptance of recommendations to investigate all acts of violence towards LGBTI persons and to bring the perpetrators to justice.
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## VANUATU UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 24 JANUARY 2019, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 29 JANUARY 2019, 16:30 – 18:00

During the 32nd UPR Working Group Sessions, Vanuatu received 6 SOGIESC recommendations. It noted all the 6 recommendations.

### A. SOGIESC Information

#### National Report

N/A

#### Compilation of UN Information

N/A

#### Summary of Stakeholder's Information

5. Kaleidoscope Human Rights Foundation (KAHRF) stated that despite general human rights protections under the Constitution of Vanuatu, discrimination based on people's sexual orientation, on gender identity and on sex characteristics were not protected. Hence, KAHRF encouraged Vanuatu to amend article 5 of the Constitution by adding sexual orientation, gender identity and sex characteristics as prohibited grounds for discrimination. It also urged Vanuatu to enact anti-discrimination legislation that prohibits all forms of discrimination on the grounds of sexual orientation, gender identity and sex characteristics in all areas of public life, including employment, education, health care, housing and the provision of goods and services.

6. KAHRF also stated that despite some historical recognition and acceptance of lesbian, gay, bisexual, transsexual and inter-sex (LGBTI) persons, Vanuatu faced significant cultural and social hurdles in eradicating discrimination and stigma against them. It urged Vanuatu to include LGBTI people in the National Gender Equality Policy, proactively address discrimination against LGBTI people in all areas of public life and allow for a better understanding of patterns of discrimination against LGBTI people.

7. According to KAHRF, Vanuatu should enact legislation that allows transgender people to change their gender markers on official documents, on the basis of selfdetermination and without any requirement of "sex reassignment surgery".

### B. SOGIESC Advanced Questions for Vanuatu

- **Germany:** How do you plan to ensure the rights of LGBTI people?

### C. Vanuatu's Working Group Session

N/A

### D. Recommendations for Cycle III (2019)

#### a) Remarks of States

- **Spain:** Spain congratulates Vanuatu for the inclusion in the Constitution of provisions on human rights, such as the protection against discrimination based on sexual orientation, gender identity or sexual characteristics of people.

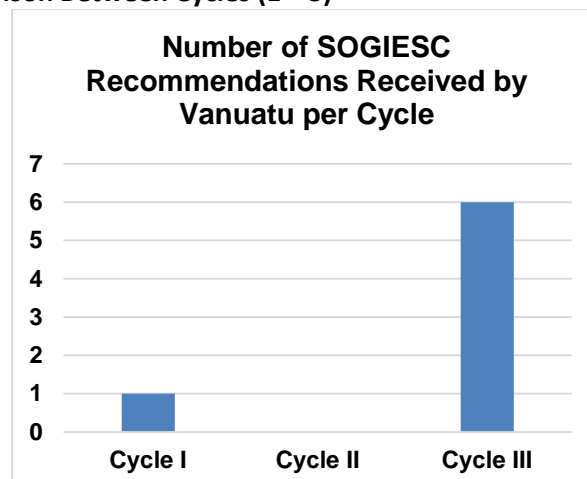
#### b) The following recommendations have been examined by Vanuatu and have been noted by Vanuatu

- **Uruguay:** Implement specific measures to combat all forms of discrimination, including discrimination based on sexual orientation or gender identity, in order to guarantee the enjoyment of rights of LGBTI persons (7.29).
- **Canada:** Put in place measures, including through anti-discrimination measures and awareness-raising campaigns, to eliminate discrimination and violence against LGBTI persons (7.24).
- **Chile:** Strengthen measures to eradicate all violence and discrimination, and promote the inclusion, in particular of women, persons with disabilities, and LGBTI persons, as well as to protect their rights (7.25).
- **Germany:** Enhance the rights of LGBTI people by protecting them effectively from violence and discrimination (7.26).
- **Iceland:** Take further efforts to protect and integrate LGBTI persons into society (7.27).
- **Spain:** Continue working to consolidate the civil rights of persons belonging to the LGBTI community (7.28).

### E. Recommendations for Cycle II (2014)

N/A

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



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

H. [SOGIESC Mentions During Vanuatu's UPR Outcome](#)

- [Commonwealth Human Rights Initiative](#): Regretted that Vanuatu noted 39 recommendations relating to ratification of core international human rights instruments, elimination of gender discrimination and stereotypes and the rights and social inclusion of LGBTI persons.

## VIET NAM UPR SOGIESC RECOMMENDATIONS

**DATE AND TIME OF THE REVIEW: 22 JANUARY 2019, 14:30 – 18:00**  
**DATE AND TIME OF THE ADOPTION OF THE REPORT: 25 JANUARY 2019, 15:00-18:00**

During the 32<sup>nd</sup> UPR Working Group Sessions, Viet Nam received 7 SOGIESC recommendations. It accepted 4 recommendations and noted 3.

### A. SOGIESC Information

#### National Report

57. This Law<sup>22</sup> also strictly forbids acts of torture and coercion; cruel, inhumane and degrading treatment or punishment; or any form of treatment that violates the legitimate rights and interests of persons held under temporary detention or custody; unlawful detainment, release of detained persons, and other violations in the administration of detainees; forbids acts that hinder the detainees from exercising their right to meet their relatives, right to defense, legal assistance and consular visits, rights to file complaints or allegations, or other human and civil rights as per regulations; prohibits acts that organize, provoke, manipulate, persuade, influence, abet, conceal or coerce others to violate the law, commit vengeance, or otherwise infringe upon the life, health, honor, dignity, property of others under temporary detention (Article 8). Pregnant women or nursing infants under 36 months of age, LGBT persons, persons infected with communicable diseases, persons showing signs of mental illnesses, loss of awareness or behavioral control but are yet undiagnosed, awaiting diagnosis or awaiting transfer to a treatment facility, or people sentenced to capital punishment, may be detained in separate rooms.

#### Compilation of UN Information

18. The United Nations country team recommended that Viet Nam adopt the law on gender affirmation as soon as possible and ensure its consistency with international human rights standards to enable transgender persons to change their legal gender marker.

#### Summary of Stakeholder's Information

11. JS12<sup>23</sup>, JS14<sup>24</sup> and JS15<sup>25</sup> recommended issuing standing invitations to United Nations special procedures. AI<sup>26</sup> and FN<sup>27</sup> recommended that Viet Nam co-operate with the United Nations human

<sup>22</sup> The Law on the Enforcement of Custody and Temporary Detention

<sup>23</sup> Joint submission 12 submitted by: International Federation of Human Rights, Vietnam Committee on Human Rights, Paris (France).

<sup>24</sup> Joint submission 14 submitted by: Mnet and its partners: Institute for Development and Community Health (LIGHT); Center for Development and Integration (CDI); Research Center for Gender-Family and Community Development (GFCD); Institute for Research on Policy, Law and Development (PLD) Vietnam Justice Support Association for the Poor (VIJUSAP); Social Work and Community Development Research Centre (SDRC); Center for family support and community development (CFSCD). Other NGO partners include Research Centre for Gender, Family and Environment in Development (CGFED) and Human Rights Space (HRS), Dich Vong Hau, (Viet Nam);

<sup>25</sup> Joint submission 15 submitted by: Human Rights Space, The Cooperation Group for Governance and Public Administration Reform, Hanoi, (Viet Nam);

<sup>26</sup> Amnesty International

<sup>27</sup> Freedom Now

rights mechanisms, in particular the Special Rapporteur on the situation of human rights defenders. JS4 recommended extending invitations to the Special rapporteur on the rights to freedom of association and peaceful assembly; Special rapporteur on violence against women, its causes and consequences; and the Working group on discrimination against women de jure and de facto. JS13<sup>28</sup> invited the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity to visit Viet Nam. FN recommended that Viet Nam invite the Special Rapporteur on freedom of expression and opinion, the Special Rapporteur on the freedom of peaceful assembly and association, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Working Group on Arbitrary Detention for country visits. WEA<sup>29</sup> recommended inviting the Special Rapporteur on Freedom of Religion or Belief for a follow-up visit.

22. JS3<sup>30</sup> noted positive steps taken on LGBTI persons' rights, but legal and policy reforms were still needed. iSEE<sup>31</sup> and JS15 noted that the LGBTI community faced low recognition, discrimination, and difficulties in mobilization of resources. HIV stigma and discrimination existed in workplace and media. iSEE and JS3 recommended that Viet Nam pass laws against discrimination of sexual orientation and gender identity. JS6<sup>32</sup> recommended that Viet Nam adopt laws that recognize and realize the rights of transgender/transsexual people and legalize sex work.

## B. SOGIESC Advanced Questions for Viet Nam

- **Sweden:** How will the Government strengthen LGBTI-persons' full enjoyment of human rights?
- **Sweden:** How will the Government of Vietnam implement article 37 of the Civil Code on gender re-assignment that was adopted in 2015 and the accepted recommendation made by Chile from the 2nd cycle to enact a law to fight against discrimination which guarantees the equality of all citizens, regardless of their sexual orientation and gender identity?
- **Netherlands:** The Netherlands would like to ask if Vietnam will ensure that "sexual orientation" and "gender identity" are forbidden grounds of discrimination in the revision of the Labor code in 2019?
- **United States:** The United States is encouraged by Vietnam's commitments towards respecting the rights of persons with disabilities and for LGBTI individuals. What steps will the Vietnamese government take to prohibit discrimination on these bases in public life, including employment, housing and the provision of public services? Will Vietnam consider a visit by the relevant UN Independent Experts?

## C. Viet Nam's Working Group Session

- **Closing remarks:** As to the issue of gender, about LGBT, as you are aware, Viet Nam prohibits the discrimination based on sexual orientation and gender identity. In our new laws we have facultize the right to reidentify gender and also the right to transform the gender and we are now drafting the law on gender transformation.

<sup>28</sup> Joint submission 13 submitted by: Next GEN, Hanoi, (Viet Nam);

<sup>29</sup> World Evangelical Alliance

<sup>30</sup> Joint submission 3 submitted by: Kaleidoscope Australia Human Rights Foundation, Institute for Studies of Society, Economics and the Environment, Clayton Victoria (Australia);

<sup>31</sup> Institute for Studies of Society, Economy and Environment

<sup>32</sup> Joint submission 6 submitted by: Gender-based Violence Prevention Network Vietnam, Hanoi (Viet Nam);

#### D. Recommendations for Cycle III (2019)

##### a) Remarks of States

- **Sweden:** Sweden acknowledges improvements on freedom of religion or belief, and the human rights of LGBTI-persons.
- **Iceland:** Iceland welcomes the efforts made by Viet Nam to improve gender equality as well as ensuring the rights of LGBTI persons.

##### b) The following recommendations have been examined by Viet Nam and enjoy its support:

- **Malta:** Take further steps to ensure the protection of all vulnerable groups in society including LGBTI persons (6.97).
- **Chile:** Develop legislation against discrimination on the grounds of sexual orientation and gender identity (6.109).
- **Iceland:** Enact legislation to ensure access to gender affirmation treatment and legal gender recognition (6.93).
- **Canada:** Review the law on marriage and the family to guarantee the equality to same sex couples (6.236).

##### c) The following recommendations have been examined and noted by Viet Nam:

- **Netherlands:** Legalize same-sex marriage before the next UPR (6.98).
- **Norway:** Explicitly provide “sexual orientation” and “gender identity” as a forbidden ground of discrimination in the revised Labour Code and other relevant laws (6.99).
- **Iceland:** Adopt marriage equality legislation, extending full marriage rights to same-sex couples (6.229).

#### E. Recommendations for Cycle II (2014)

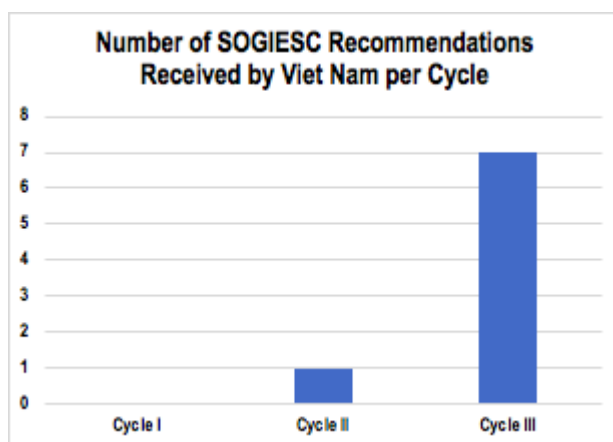
RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Enact a law to fight against discrimination which guarantees the equality of all citizens, regardless of their sexual orientation and gender identity	Chile	Accepted

#### F. SOGIESC recommendations shared by HRDs during ILGA’s UPR advocacy week in Geneva: LGBTIQ UPR Working Group

1. Implement the recommendation 143.88 made by Chile (A/HRC/26/6) in the Second Cycle, within two years, to pass a comprehensive anti-discrimination law that prohibits discrimination on the basis of sexual orientation and gender identity in all areas of public life, including employment, education and healthcare.
2. Include the terms “sexual orientation” and “gender identity” in clauses on equality and non-discrimination in the Revised Labor Code and other laws.

3. Enact the Law on Transgender persons, which is required by the Civil Code 2015 (Article 37), within two years, to ensure that transgender and non-binary people can access gender affirmation treatment and legal gender recognition on the basis of self-determination.
4. Review the Law on Marriage and Family to legalize same-sex marriages to ensure same-sex couples have the equal rights of founding a family and protection of marriage as opposite-sex couples.
5. Immediately outlaw non-consensual and non-medically necessary medical interventions carried out on intersex children in the Civil Code (Article 36) and the Decree 88/ND-CP/2008, and guarantee intersex people their rights to bodily integrity and self-determination.
6. Immediately develop and promulgate a law on freedom of association and a law of peaceful assembly to improve the legal framework for rights to association in Viet Nam in line with the ICCPR as well as in consultation with civil society

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



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

#### I. [SOGIESC Mentions During Viet Nam's UPR Outcome](#)

- **Vietnam Peace and Development Foundation:** Commended the advances made by Viet Nam's government, including the enactment of the law on gender transformation.
- **COC Nederland:** Commended the decision of Viet Nam to accept 4 out of 7 SOGIESC recommendations, including the one on enacting legislation to ensure access to gender affirmation treatment and legal gender recognition and asked the government to clarify if this legislation will be in accordance with the international standards and if self-determination of trans people will be respected. Expressed disappointment with the decision of note recommendations on same-sex marriage. Hopes the recommendations will be implemented in consultation with civil society.
- **Closing remarks:** I would also like to thank the comments on the issue of LGBTI, in Viet Nam, as we discussed before the constitution and related norms in Viet Nam affirm that cannot be discrimination on the basis of gender and actually prohibits gender-based discrimination. The Civil Law of 2015 establishes the right to reidentify gender and the right to gender transformation. We are now considering the formulation of the law on gender transformation. Not only about the law, but when you come to Viet Nam you see the law



being implemented and the greater and greater tolerance about the diversity at the same time, we are aware this is a cultural issue, a issue we should respect in many other countries. And we are now trying to raise the awareness among the public on the issue and try to deal with the barriers that may still exists in the society that may lead to discrimination based on gender, but we will listen to what you have said.

## **YEMEN**

### **UPR SOGIESC RECOMMENDATIONS**

**DATE AND TIME OF THE REVIEW: 23 JANUARY 2019, 14:30 – 18:00**  
**DATE AND TIME OF THE ADOPTION OF THE REPORT: 25 JANUARY 2019, 15:00-18:00**

During the 32<sup>nd</sup> UPR Working Group Sessions, Yemen received 0 SOGIESC recommendations.

#### **A. SOGIESC Information**

##### [National Report](#)

N/A

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

44. UNHCR noted that the number of incidents of sexual and gender-based violence reported by refugees and asylum seekers had increased. In 2017, UNHCR had identified and provided assistance to 262 refugee and asylum-seeking victims of rape and domestic violence. Victims were particularly exposed to stigma, while the weak prosecution of perpetrators led to a perception of impunity among victims and to a reluctance to complain. Moreover, lesbian, gay, bisexual, transgender and intersex asylum seekers and refugees were particularly affected by ostracism and intolerance. Additionally, Somali refugees continued to carry out harmful practices such as female genital mutilation and early marriages.

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

N/A

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

N/A

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

N/A

#### **D. Recommendations for Cycle III (2019)**

N/A

#### **E. Recommendations for Cycle II (2014)**

N/A



F. [Video of Yemen's UPR Working Group Session](#)

G. [SOGIESC Mentions During Yemen's UPR Outcome](#)

N/A