

## LGBTI Enlargement Review 2023

ILGA-Europe, in cooperation with ERA – LGBTI Equal Rights Association for Western Balkans and Turkey (Regional); Aleanca, Streha LGBT, Pink Embassy, Pro LGBT, Open Mind Spectrum Albania – OMSA, Ylberofilia (Albania); Sarajevo Open Centre (Bosnia and Herzegovina); Center for Social Group Development CSGD and Center for Equality and Liberty CEL (Kosovo); Equality Movement, Tbilisi Pride, Women’s Initiatives Supporting Group - WISG (Georgia); Genderdoc-M (Moldova); Association Spectra, LGBT Forum Progress, LGBTIQ Social Centre, Juventas and Queer Montenegro (Montenegro); Helsinki Committee for Human Rights – LGBTI Support Centre, Coalition for sexual and health rights of marginalized communities MARGINS, Transforma, Subversive Front, LGBT United Tetovo (North Macedonia); Rainbow Ignite, Labris, Da se zna!, Geten – Center for LGBTIQA People's Rights, XY Spectrum, Crisis Response and Policy Centre - CRPC, Egal, Collective Wave TIGV (Serbia); SPoD, 17 May Association, HEVI LGBTI+ Association for Rights, Equality and Existence, Intersex Turkey and Kaos GL (Turkey); Insight, Gender Stream, Fulcrum (Ukraine).

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## Introduction

### Rationale

As in previous years, ILGA-Europe has worked with ERA - LGBTI Rights Association for the Western Balkans and Turkey, to produce this LGBTI Enlargement Review, assessing gaps in legislation and policy for the protection and advancement of the human rights of LGBTI people in the enlargement countries, and identifying priorities the EU should insist authorities in each country need to tackle in the coming year, as identified by LGBTI activists in the respective countries.

2022 was an historic year for the enlargement process, as the EU expanded its promise of a perspective for EU accession to include Ukraine, Moldova and Georgia, following the beginning of Russia’s war in Ukraine on 24 February 2022. All three countries are now included in the EU’s annual enlargement reporting process, for which we compile this submission. ILGA-Europe has member organisations in all of the newly added countries, and therefore this year’s LGBTI Enlargement Review covers the perspectives of LGBTI civil society from all ten countries: Albania, Bosnia & Herzegovina, Georgia, Kosovo, Moldova, Montenegro, North Macedonia, Serbia, Turkey and Ukraine.

The annual enlargement report process is a key moment to remind governments of the criteria that need to be met and point out where advancement on rule of law and the protection of fundamental rights. It is especially important in this context that the EU insist that the protection of LGBTI people’s human rights are a core part of those requirements, as they are often falling behind the requirements. The recommendations regarding the human rights of LGBTI people are key tools supporting LGBTI organisations in the enlargement countries to engage with their governments and hold them accountable to the commitments made.

### Context

In February 2022, Ukraine applied for EU membership and the EU Council formally approved Ukraine’s candidate status four months later in June 2022. The Ukrainian government has over the last months shown clear commitment towards EU integration and taken concrete measures to strengthen its democratic safeguards, for example in combatting corruption. What is needed now is that the fundamental rights of vulnerable groups, including LGBTI people, become an integral part of Ukraine’s efforts to improve its democratic and human rights standards, as well as respect for and protection of the rule of law. Relevant legislative drafts on registered partnership and criminalisation of hate crimes on grounds of sexual orientation and gender identity are on the table and the European Commission

needs to push for this legislation to be adopted soon. LGBTI civil society in Ukraine is working tirelessly to continue providing services to the LGBTI community during times of war, as well as to improve the rights of LGBTI people in Ukraine and contribute to a pluralistic and democratic society.

In parallel, and also as a result of Russia's war in Ukraine, neighbouring countries Georgia and Moldova applied for EU membership in March 2022, and were assessed alongside Ukraine. Moldova was granted candidate status in June 2022, and Georgia was given a set of twelve priorities to achieve in order to become candidate. All three countries have been offered the path to European integration, and have chosen this path in the face of Russia's imperialist ambitions and anti-democratic interference. In the beginning of 2023 the reality of this has become extremely clear, with pro-Russian forces attempting to destabilise Moldova's government, and in Georgia, a Russia-style foreign agent law was adopted and then repealed after massive pro-EU protests. This law would have restricted and undermined civil society, leading the country away from EU values of democracy and a thriving civil society, as well as being incompatible with the EU's legal practices. Even though the draft law has been withdrawn for now, the threat is not off the table, especially for restrictions regarding LGBTI organisations, and the European Commission needs to include clear recommendations against any attempt to further restrict civil society space or target LGBTI organisations.

In a time when, across Europe, anti-LGBTI sentiment is spurred by pro-Russian forces and anti-democratic actors, often as the main wedge issue to divide and distract populations from the failings of governments, it is essential that the strengthening of the fundamental rights of LGBTI people are included in the new perspectives of Ukraine, Moldova and Georgia to join the EU. Fundamental rights are a core part of the EU acquis, and all countries wanting to join the EU must adhere to clear commitments on strengthening and promoting fundamental rights of all people, with an emphasis on vulnerable populations, including LGBTI people.

The strength of disinformation and anti-LGBTI sentiment being spread across the Western Balkans region, particularly in Serbia, Bosnia and Herzegovina, Montenegro and North Macedonia, has intensified even more since Russia's war in Ukraine, with LGBTI people and civil society as targets of smear campaigns, hatred and hostility, often originating from the government level, pro-Russia forces and religious leaders. The anti-rights movement, which is well funded and coordinated, has taken root strongly in the Western Balkans region in the last two years. At the same time, LGBTI organisations in the Western Balkans are experiencing a significant reduction in funding for LGBTI projects and civil society in the region. This has resulted in a number of LGBTI organisations having to close, and many at brink of closing. Many organisations no longer have the sufficient funds to continue their work, whilst they are facing organised attacks against their physical spaces, as well as against the legal framework which protects and guarantees their equal rights. LGBTI organisations in this region form part of the civil society framework which is fighting to maintain democracy in an increasingly anti-democratic environment, and should be supported in a sustainable way. The enlargement process has been key in ensuring progress on fundamental rights in this region over the years, but LGBTI rights remain fragile and investment in civil society and maintaining fundamental rights standards is therefore key to prevent backsliding.

In Turkey, LGBTI+ people and civil society continue to face harsh repression from government levels and religious leaders. 2022 saw a record number of arrests and repression at Prides. In total, 530 people were detained during Pride season, over the span of 37 days, many of whom were subject to police violence and were put on trial as a result of their participation in Prides. The crackdown on freedom of expression continues, with arrests made for simply holding a rainbow flag, and with censorship of LGBTI+ content in books and online and offline media. LGBTI+ civil society organisations continue to face audits under the Law on Preventing Financing of Proliferation of Weapons of Mass Destruction. The earthquakes of February 2023 had a huge impact on all of Turkish society, with losses among the LGBTI+ community and civil society. LGBTI+ organisations volunteered with searches and supporting survivors, providing specific services for LGBTI+ people facing discrimination within this context. With national elections upcoming on 14 May, we are unable to determine precise LGBTI+ priorities ahead of the election, therefore content of this Review related to Turkey will be updated after the elections. Whatever the outcome, we unfortunately have to be prepared for a further tightening of civil society space, smear campaigns and active persecution of LGBTI+ people if the incumbent wins. In the current context it is important that the European Commission sends a clear message to Turkish authorities on the need to protect freedom of assembly as part of the EU acquis, as well as the protection of the safety of LGBTI+ people against hatred and violence.

### **Country submissions**

This year's LGBTI Enlargement Review is divided into country chapters, consisting of the below headings. In order to understand the reality on the ground and more nuanced context, which often varies significantly from legislative frameworks, these headings are followed by a section linking readers to the respective country chapter of ILGA-Europe's Annual Review 2023.

- Main legislation/policy to be drafted/adopted to ensure non-discrimination and access to justice for LGBTI people (priorities for the coming year)
- Implementation of already-existing legislation/policy
- Legislation/policy in process
- Feedback on the European Commission's 2022 Enlargement Report (where applicable)
- Recommendations to the EU

This year we want to particularly highlight the importance of implementation of already existing policy and legislation, as it has become commonplace for Enlargement countries to adopt a legal framework aligning with EU standards, but not actually implementing it. This problematic needs to be tackled. In order to move towards consistent implementation of the legal framework, there needs to be a focus on implementing policies, trainings and other supportive measures, including funding for supportive activities, to ensure that laws are fully applied and create real protection and a positive change for society. The chapter on Turkey is structured in a different way, in order to present the current state of play prior to the elections.

### **Final remarks**

In all of the enlargement countries, we can unfortunately identify a clear trend of rule of law being challenged, foreign influence being exerted to challenge advances on human rights, including the

rights of LGBTI people, and an increase of hate speech translating into violence on the ground, as well as ongoing challenges to freedom of assembly and association. In this context, LGBTI rights are being used to polarise society, often to distract from a broader undermining of democracy and the rule of law in these countries and other more important socio-economic and political issues. The situation is extremely worrying, not only regarding the protection of the fundamental rights of LGBTI people and their safety, but core EU fundamental rights and values. The prospect of EU enlargement has supported important advances on fundamental rights in the enlargement region, but ongoing hesitation and delays have put into question the credibility of the EU and has given space for foreign forces to exercise their influence on the region.

It is thus important that the EU renews a clear prospect for EU enlargement, not only for Ukraine, Moldova and Georgia, but most importantly in the Western Balkans. The commencement of accession talks with Albania and North Macedonia is an encouraging step in this regard. Moving the accession process forward, LGBTI rights need to be fully integrated into all negotiation chapters, instead of only being dealt with in a separated section relating to fundamental rights. As LGBTI rights are being dragged into the core of broader political games by opposing forces, it is important that the EU places LGBTI rights firmly into all its considerations, and that demands on advancing the protection of the human rights of LGBTI people are put on the same footing as important processes on fighting corruption and advancing the rule of law. Given the ever-increasing impact of the geopolitical forces on the reality and work of LGBTI activists in all the aforementioned countries, it is essential that fundamental rights of vulnerable groups such as LGBTI people are viewed by the EU and its enlargement reporting process in this light, alongside the protection of democracy, in line with the EU Treaties and Charter.

Where governments of Enlargement countries instrumentalise LGBTI people for their political aims (e.g. denial of the right to freedom of assembly for LGBTI people in Serbia's Europride in 2022), this should be publicly condemned by the EU which should hold the state accountable in negotiations. The EU's accession to the European Convention on Human Rights should be a priority and will further strengthen their fundamental rights mandate in the accession process. Another key element to ensure meaningful protection of the fundamental rights of LGBTI people in enlargement countries is to place more emphasis on ensuring proper implementation of the laws protecting and granting access to these rights. It is key that the EU makes this a priority in all the countries, also by supporting initiatives for training and education.

Finally, civil society organisations, including LGBTI organisations, are a key element of supporting democracy and the rule of law in all of the countries in this submission. The EU must be a supporting partner to these organisations, including their views meaningfully in consultations and negotiations, modelling civil dialogue as an important part of a democratic society, and continuing to support LGBTI organisations in the region through funding in the extremely fragile context.

## Albania

**Expert contributions provided by: Aleanca, PINK Embassy, Ylberofilia, Open Mind Spectrum Albania (OMSA), Pro LGBT, Streha LGBT**

### Top priorities

Main legislation/policy to be drafted/adopted to ensure non-discrimination/access to justice for LGBTI people (priorities for the next year)

- The government should start drafting legal measures, such as registered partnership, to recognise and protect same-sex couples.

The Council of Europe Committee of Ministers [recommended](#) in 2010 that member states take steps to provide legal recognition to stable couples, without discrimination between different-sex and same-sex couples. The Council of Europe has [found](#) that “it is undisputed that the relationship of a same-sex couple falls within the notion of “private life” as protected in article 8 of the European Convention on Human Rights (ECHR). In the Schalk and Kopf (2010) and Vallianatos (2013) cases, the ECtHR further held that the relationship of a same-sex couple living in a stable de facto partnership also falls within the notion of “family life” pursuant to article 8.

- The government should start drafting a law that would enable quick, transparent and accessible legal gender recognition for trans people on the basis of self-determination and in line with the WHO’s revision of ICD-11, which came into force in January 2022, and which depathologises trans identities in all areas of life.

Trans people do not enjoy the right to change their name or gender marker in Albania. A draft law on legal gender recognition was presented to the government in 2013 but nothing has been done on the part of the government to approve this draft law. In June 2020, ECRI urged Albania to put in place a legal gender recognition procedure that is quick, accessible and transparent, and a simple administrative process.

The Parliamentary Assembly of the Council of Europe (PACE) has [called on its member states](#) to “develop quick, transparent and accessible procedures, based on self-determination”. The UN Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity has also [recommended](#) that legal gender recognition should be based on self-determination, be a simple administrative process, and not require applicants to fulfil abusive requirements, including medical certification.

- Improve social support for LGBTI people, in particular municipalities should ensure better access for LGBTI people to social housing, social services, free legal aid and healthcare services.
- Education sector reform and policy should include better protections for LGBTI children and adolescents attending pre-university education in public / private schools, including provisions of information on LGBTI rights, within the human rights curricula.

#### Implementation of already-existing legislation/policy

- Properly implement hate crime and hate speech legislation

Albania's hate crime and hate speech legislation includes aggravating grounds of sexual orientation and gender identity, however, its implementation is still insufficient. Data from [surveys](#) conducted by LGBTI organisations show high percentages discrimination and violence due to a victim's sexual orientation or gender identity. LGBTI organisations have documented cases of hate speech spread by highly influential individuals in the country that remained unaddressed by the state authorities. In particular, religious leaders continue to incite hatred against the LGBTI community, and organise against diverse families at high political levels. For example, in February 2023, the Albanian Coalition for Family and Life, founded by evangelical Pastor Akil Pano who actively campaigns against LGBTI people, organised its second [convention](#) "God, family, nation" which was attended by many international politicians who also regularly use anti-LGBTI rhetoric.

The Commissioner Against Discrimination, in his annual report presented to the Parliament, highlighted that their office received several LGBTI-related hate speech reports. The actual number of cases are much higher, as the Council of Europe's [report](#) previously found that 97% of hate speech cases go unreported in Albania (non-implementation of the legal framework is a huge cause of underreporting). National and local police authorities need to establish standard procedures on dealing with hate crimes against LGBTI people, including communication protocols for police officers when dealing with cases of violence based on actual or perceived sexual orientation or gender identity.

- Ensure full and timely implementation of the new National LGBTI Action Plan (2021-2027)

LGBTI organisations are stressing the importance of full implementation of the Action Plan to avoid the experience of the previous one, when only the Ministry of Health and Social Protection fulfilled its responsibilities and cooperated with LGBTI civil society. The Action Plan should be allocated a sufficient budget and the amount allocated should be made publicly available. Rule of law and respect for fundamental rights are pillars of the European integration process and should be seen by the Albanian government as a matter of priority.

In particular, the Ministry of Health should develop a medical protocol that ensures healthcare and hormone therapy for transgender people. Due to lack of access to healthcare many transgender



people end up buying the medication from the black market and taking it without supervision of a doctor. The National Action Plan required that this be developed within the first two years of implementation, however, the Ministry has yet to begin work on this.

- Properly implement the National Strategy for People Living with HIV 2020-2025, in particular provision of adequate care for LGBTIQ+ people

This National Strategy, adopted in 2019, is not being properly implemented. Access to PrEP and PEP continues to be unavailable to LGBTIQ+ people. Viral load tests are unavailable at public hospitals, and private clinics remain unaffordable for most. These shortcomings should be resolved via implementing the Strategy with a specific focus on the needs of LGBTIQ+ people.

#### Legislation/policy in process

- The Ministry of Justice, in 2021, launched consultations to amend the Family Code to grant rights to rainbow families, including through legal recognition for cohabiting same-sex couples and allowing unmarried couples to adopt. The initiative received support from the international community and from the Commissioner Against Discrimination, Robert Gajda, who called for the adoption of this legal reform. However, the government backtracked on its commitment after backlash from religious leaders and some of civil society. The government should return the focus to this key legislation to protect the family rights of LGBTIQ+ people who, for now, face legal insecurities. For example, in June 2022, the authorities refused to register two women, who are a same-sex couple, as parents of their two children.

#### **Feedback on the European Commission's 2022 Enlargement Report**

- The report rightfully states that discrimination against lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons remains pervasive and dominant in Albanian society, especially regarding access to health care, education, justice, employment and housing. Cases of physical aggression against members of the community still occur, and hate speech continues, particularly on social media. However, the report fails to place the responsibility within state institutions and to recommend better responses by state justice providers and systematic promotion of equality and condemnation of discrimination, hate speech and hate crimes against LGBTIQ people.
- In its recommendation, the Commission asks Albania in 2023 to adopt pending legislation on minority rights, particularly on self-identification. However, it is not clear whether this recommendation also applies to LGBTIQ people.
- Mainstreaming LGBTIQ+ specific issues into other sections of the enlargement report, and emphasising that it is about fundamental rights for all, in accordance with international and European human rights standards, is essential framing to ensure de-politicisation of measures and laws that improve the lives of LGBTIQ people by ensuring their equal access to rights.

- We welcome the fact that the EU provides more direct criticism regarding the Albanian government's efforts to provide referral mechanisms between different levels of care, also specifying how LGBTIQ individuals face limited access to primary healthcare and sexual and reproductive healthcare services.
- Finally, Albania is commended by the European Commission for adopting a new and better-budgeted National LGBTI Action Plan, which includes measures to fight discrimination, improve access to services and approve the legal gender recognition law. It states, however, that it is essential that the plan is adequately financed and that political will for its enforcement is demonstrated to make up for the deficiencies in implementing the previous plan.

### **Recommendations to the EU**

- The EU should keep a high focus on key reforms on LGBTI rights and continue the consultation process with LGBTI organisations to maintain an in-depth understanding of context relevant to the LGBTI population;
- The EU needs to support and push the state in the advancement of key legislation to ensure family rights for LGBTI people and access to legal gender recognition;
- The EU needs to apply pressure to state justice providers in all instances to ensure the proper implementation of legislation on discrimination, hate crime and hate speech, to ensure access to justice for LGBTI people;
- Continue supporting civil society in addressing the human rights of LGBTI people as an integral part of the EU accession process.

### **Annex – Albania's Annual Review chapter**

ILGA-Europe's Annual Review documents progress and trends regarding the human rights situation of LGBTI people. It allows policy makers and institutions to gain a deeper understanding of the reality on the ground for LGBTI people and civil society, which often differs significantly from legislative frameworks.

You can find the Albania chapter [here](#), which covers the period of January-December 2022.

## Bosnia & Herzegovina

Expert contributions provided by: Sarajevo Open Centre

### Top priorities

Main legislation/policy to be drafted/adopted to ensure non-discrimination/access to justice for LGBTI people (priorities for the next year)

- The Federation, Republika Srpska and Brčko District should draft a law to ensure legal gender recognition based on self-determination, in accordance with ECtHR practice and the WHO's revision of [ICD-11](#), which came into force in January 2022, and which depathologises trans identities in all areas of life.

Currently the process of accessing legal gender recognition in Bosnia & Herzegovina [lacks](#) clarity and is difficult to access. In order to change one's sex marker in personal documents and to receive a Unique Identification Number, full surgical transition is [required](#). The LGBTI Action Plan 2021-2024 commits all Ministries of Health to analysing and promoting administrative and medical aspects of gender reassignment, including identifying obstacles and proposing solutions to these obstacles.<sup>1</sup> However, after Tuzla Canton Ministry of Health and Sarajevo Open Centre formally asked the Federal Ministry of Health to clarify the process of legal gender recognition and adopt a federal regulation on the matter, they responded that they are not responsible for defining the medical aspect of the transition process nor for any bylaws on this issue. This is in direct contradiction to their duties under the Action Plan.

The Parliamentary Assembly of the Council of Europe (PACE) has [called on its member states](#) to “develop quick, transparent and accessible procedures, based on self-determination”. The UN Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity has also [recommended](#) that legal gender recognition should be based on self-determination, be a simple administrative process, and not require applicants to fulfil abusive requirements such as surgical interventions or requiring medical certification. Adoption of legal gender recognition in line with these standards would help Bosnia & Herzegovina achieve condition number 13<sup>2</sup> of the 14 [conditions](#), set by the European Commission, which the country needs to fulfil in order to achieve EU candidate status.

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<sup>1</sup> See Activity 2.2 of the LGBTI Action Plan, available at: <https://soc.ba/site/wp-content/uploads/2022/10/AP-LGBTI-ENG-FINAL-2750-4243-3030.1.pdf> page 20.

<sup>2</sup> (13) Improve the protection and inclusion of vulnerable groups, in particular persons with disabilities, children, LGBTIQ persons, members of the Roma community, detainees, migrants and asylum seekers, as well as displaced persons and refugees in line with the objective of closure of Annex VII of the Dayton Peace Agreement.

- Republika Srpska and Brčko District should initiate processes for the drafting of legislative solutions for the recognition of same-sex partnerships, in order to provide same-sex couples with equal treatment on this issue countrywide.

The Council of Europe Committee of Ministers [recommended](#) in 2010 that member states take steps to provide legal recognition to stable couples, without discrimination between different-sex and same-sex couples. The Council of Europe has [found](#) that “it is undisputed that the relationship of a same-sex couple falls within the notion of “private life” as protected in article 8 of the European Convention on Human Rights (ECHR).

#### Implementation of already-existing legislation/policy

- Ensure full and timely implementation of the new National [LGBTI Action Plan](#) 2021-2024 which was [adopted](#) in late July. The Action Plan has been welcomed by civil society, the [Council of Europe, and the EU](#).
- LGBTI civil society has been calling for at least 7 years for the governments of the Federation of BiH and Republika Srpska to amend their criminal codes to cover the ground of sex characteristics as an aggravating factor in hate crimes, for the government of Brčko District to amend the criminal code to cover the grounds of both gender identity and sex characteristics as an aggravating factor in hate crimes, and for the hate speech laws of the Federation and Brčko District to be amended to include SOGI as is the case already with Republika Srpska.
- The respective governments should improve the implementation of laws tackling hate crime and hate speech against LGBT people by:
  - Improving the capacities of the prosecutorial and judicial system to adequately recognize, treat and sanction hate crime and hate speech, including the effective use of the aggravating grounds of SOGI, through trainings on incitement to hatred and violence against LGBTI people and on tackling LGBTI-phobia in the institutions;
  - Improving the monitoring of hate crimes and hate speech by relevant authorities, and supporting LGBTI people to report;
  - Ensuring public officials are sanctioned and publicly condemned when they use hate speech or discriminatory speech about LGBTI people;
  - Systematically collecting data on hate crimes based on gender and SOGI.

General elections were held in October 2022. Many politicians used hate speech towards LGBTI people as part of their political campaigns. LGBTI civil society remains concerned that the state does not gather data on hate crimes or hate speech against LGBTI people. The rise of hate speech was [highlighted](#) as a key concern by the Office of the UN High Commissioner for Human Rights in January 2022. On 18 March 2023, following hate speech and incitement to violence from politicians in

Republika Srpska prior to the event, the Ministry of Interior of Republika Srpska issued a decision to ban an event being organised by BiH Pride organisation in Banja Luka that same day. This was under the pretext of police not having enough capacity to protect LGBTI activists, which contravenes international standards regarding the right to freedom of assembly. In addition, when LGBTI activists were later [attacked](#) anyway, police provided no protection, [despite being present](#). LGBTI activists are planning to press criminal charges towards local politicians in Republika Srpska for hate speech and to lodge a complaint on the decision to ban the event. This incident must be seen in the context of the Government of Republika Srpska's plans to [introduce](#) a "Foreign Agent Law" and to criminalise defamation in order to reduce freedom of expression.

Good practice from 2022 is that by November, [all ten](#) cantonal Prosecutor's Offices had put in place a focal point in charge of overseeing anti-LGBTI hate crimes. Trebinje was the first canton in Republika Srpska to take this important step. These prosecutors were [trained](#) by Sarajevo Open Centre on anti-LGBTI hate speech and hate crime. Ensuring all LGBTI people are protected by Bosnia & Herzegovina's hate crime and hate speech laws, and that these laws are properly implemented, will help Bosnia & Herzegovina achieve condition number 13<sup>3</sup> of the 14 [conditions](#) set by the European Commission which the country needs to fulfil in order to achieve EU candidate status.

#### Legislation/policy in process

- The government should draft a law that would regulate same-sex partnership on the level of entities, covering the widest possible range of rights for same-sex partners

The process of legislating at the Federal level has been significantly delayed since its commencement in 2018, when the decision was made to form an intersectoral working group to analyse the Federation's laws that need to be amended to ensure equality for same-sex partners. It took the Federal government two years to appoint members to this working group. In early 2020 members were finally appointed, but the working group was suspended until early 2021 due to the Covid-19 pandemic. In November 2022, the federal government approved the [opinion](#) of the working group which sets out that the government should start drafting the law on same-sex partnerships and that the law should cover the widest possible range of rights for same-sex partners. On 9 December 2022, the Federal Ministry of Interior launched a public consultation, the results of which showed that government representatives and public servants unanimously support the working group's official conclusion.

- Amend and harmonise freedom of assembly laws with the 2020 Brčko District law to make application equal across the country and to ensure harmonization with international and

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<sup>3</sup> (13) Improve the protection and inclusion of vulnerable groups, in particular persons with disabilities, children, LGBTIQ persons, members of the Roma community, detainees, migrants and asylum seekers, as well as displaced persons and refugees in line with the objective of closure of Annex VII of the Dayton Peace Agreement.

European standards, in particular grounds for restriction and responsibility of organisers as [highlighted](#) by the European Commission.

Twelve laws on freedom of assembly exist in Bosnia and Herzegovina due to the complex constitutional state system. Only one is harmonised with international standards (Brčko District). Civil society, including LGBTI civil society, are advocating for the harmonisation of freedom of assembly laws with international and European standards. For several years there have been irregularities from authorities and police when LGBTI people exercised their right to freedom of assembly at the annual Sarajevo Pride parade. Authorities continued to [make](#) burdensome administrative requirements, and in 2022 Pride organisers were [met](#) with hostile attitudes from authorities. In 2021 the city and canton of Sarajevo covered the cost of additional security for the first time, which [continued](#) in 2022. However, this financial support was thanks to the goodwill of local politicians rather than the letter of the law, which is not a sustainable solution. The law must be amended. In addition, civil society [recorded](#) a number of irregularities at the hands of the police during Sarajevo Pride in 2022. For example, police guided some participants to entrances that did not exist, blocked entrances with tape, or asked for an entry pass (which did not exist).

### **Feedback on the European Commission's 2022 Enlargement Report**

- LGBTI issues should be mentioned in every section where they are relevant. For example, there is no mention of LGBTI women in the section on gender equality. It is important to acknowledge LGBTI women here as women who are at particular risk of discrimination due to their sexual orientation, gender identity or sex characteristics, and should be included in policy and programmes on gender equality, in line with the [EU's Gender Action Plan III](#) which highlights LGBTI women as a group at high risk of gender-based violence and domestic violence.
- Mainstreaming LGBTI specific issues into other sections of the enlargement report, and emphasizing that it is about fundamental rights for all, in accordance with international and European human rights standards, is essential framing to ensure de-politicisation of measures and laws that improve the lives of LGBTI people by ensuring their equal access to rights.

### **Recommendations to the EU**

- Help ensure the inclusion of civil society in the process of initiating and drafting laws and policies;
- Continue to monitor implementation of laws related to fundamental rights and democracy, speaking out strongly in case of non-implementation or undue delays;
- Continue and enhance funding for human rights related projects and programmes, in accordance with the EU's Action Plan for Human Rights and Democracy and Gender Action Plan III, which are designed to also cover LGBTI people and civil society;
- Make stronger statements and recommendations to the government and institutions on how to improve the protection and advancement of the human rights of LGBTI people, including

condemning strongly and publicly any anti-human rights, anti-democratic and anti-rule of law developments;

- Enhance monitoring of human rights in the context of putting human rights higher in the political agenda.

### **Annex – Bosnia & Herzegovina’s Annual Review chapter**

ILGA-Europe’s Annual Review documents progress and trends regarding the human rights situation of LGBTI people. It allows policy makers and institutions to gain a deeper understanding of the reality on the ground for LGBTI people and civil society, which often differs significantly from legislative frameworks.

You can find the Bosnia & Herzegovina chapter [here](#), which covers the period of January-December 2022.

## Georgia

**Expert contributions provided by: Equality Movement, Tbilisi Pride, Women’s Initiatives Supporting Group (WISG)**

### Top priorities

Main legislation/policy to be drafted/adopted to ensure non-discrimination/access to justice for LGBTI people

- Following the December 2022 ECtHR positive judgement in *A.D. and others v. Georgia*,<sup>4</sup> in which Georgia was found in violation of Article 8 ECHR (right to private life) owing to an unclear legal framework concerning LGR and inconsistent interpretation of relevant provisions by domestic courts, we call on Georgian authorities to work with LGBTI civil society to put in place a clear legal framework allowing for quick, transparent & accessible procedures for legal gender recognition on the basis of self-determination and in line with the WHO’s revision of [ICD-11](#), which came into force in January 2022, and which depathologises trans identities in all areas of life.

Currently according to practice, surgical intervention is a mandatory requirement/precondition for accessing legal gender recognition in Georgia. There is no clear & comprehensive domestic law governing the process. The only legal provision related to it is Section 78(g) of the Law of Georgia on Civil Acts which lists the grounds based on which changes can be made in civil acts, i.e. in IDs. One of the grounds (g) is “change of sex - if a person wants to change the name and/or surname in connection with the change of gender”.

The Parliamentary Assembly of the Council of Europe (PACE) has [called on its member states](#) to “develop quick, transparent and accessible procedures, based on self-determination”. The UN Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity has also [recommended](#) that legal gender recognition should be based on self-determination, be a simple administrative process, and not require applicants to fulfil abusive requirements such as surgical interventions or requiring medical certification.

- Create medical guidelines and protocols for trans-specific healthcare in coordination with LGBTI community-based organisations.

Currently Georgia has no national medical guidelines or protocols in place for trans-specific health-care, which makes quality medical services inaccessible for trans people who wish to undergo gender-reassignment medical procedures. Trans-specific health-care services are also not covered by any public or private health insurance plans, which makes these services financially inaccessible as well.

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<sup>4</sup> <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-221237%22%5D%7D>



- Establish state funded services for victims of hate crimes, using the example of the services established for domestic violence victims.

#### Implementation of already-existing legislation/policy

- Ensure proper use of relevant articles in the criminal code to prosecute perpetrators of hate crimes based on sexual orientation and gender identity. Establish a special unit in the Ministry of Internal Affairs responsible for investigating hate crimes. As regards prevention, start integrating comprehensive sexuality education into formal education to reduce stigma and discriminatory attitudes among the population.

#### Legislation/policy in process

- Adoption of the National Human Rights Protection Strategy 2022-2030, ensuring that actions and implementation cover LGBTI people.

LGBTI was excluded from the strategy at the last minute and the government excluded LGBTI organisations from the drafting process, despite them asking to be included. The government has since committed to including LGBTI-specific issues in the respective action plan, which it should do with the effective involvement of LGBTI community-based organisations. LGBTI civil society have sent a chapter on LGBTI topics to the Parliament for inclusion in the draft Strategy. The Parliamentary Human Rights Committee should include the requests of LGBTI civil society into the draft Strategy. The government should uphold its commitment by including the LGBTI points indicated in the chapter in the Strategy's action plan, and allocate a sufficient timeline and budget for it.

- In accordance with recommendation number 12 of [the European Commission's Opinion on the EU membership application by Georgia](#), which states "ensure the involvement of civil society in decision-making processes at all levels", civil society organisations should be consulted while developing legislation and policies. For example, the Parliament's Gender Equality Council or bodies related to human rights should regularly consult with LGBTI civil society organisations, and the government should consult with LGBTI civil society when drafting strategies and action plans related to human rights, democracy and rule of law.

#### **Recommendations to the EU**

- The EU Delegation should consult with LGBTI civil society in preparation of the Enlargement Progress report, as well as other relevant programmes related to fundamental rights and democracy;
- The EU should refer to the upcoming [EU Georgia-Association Action Plan 2021-2027](#), and align the LGBTI related priorities with those of the Enlargement process for Georgia;
- The EU should support the requests made by LGBTI civil society as regards the inclusion of topics in the National Human Rights Protection Strategy 2022-2030;
- The EU should focus on broad benefits of EU accession when communicating in public;
- The EU should prioritise fighting violent extremism in Georgia.



## **Annex – Georgia’s Annual Review chapter**

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You can find the Georgia chapter [here](#), which covers the period of January-December 2022.

## Kosovo

Expert contributions by: CEL and CSGD

### Top priorities

Main legislation/policy to be drafted/adopted to ensure non-discrimination/access to justice for LGBTIQ+ people (priorities for the next year)

- The government should include same-sex marriage in the Civil Code, in line with Kosovo's Constitution, specifically Article 37 which states the following:

"Based on free will, everyone enjoys the right to marry and the right to have a family as provided by law... Marriage and divorce are regulated by law and are based on the equality of spouses."

- Adoption of a fair, transparent legal framework for legal gender recognition based on the principle of self-determination. The government should adopt a law that would enable quick, transparent and accessible legal gender recognition for trans people on the basis of self-determination and in line with the WHO's revision of ICD-11, which came into force in January 2022, and which depathologises trans identities in all areas of life.

The Parliamentary Assembly of the Council of Europe (PACE) has [called, in its Resolution 2048, on its member states](#) to "develop quick, transparent and accessible procedures, based on self-determination". The UN Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity has also [recommended](#) that legal gender recognition should be based on self-determination, be a simple administrative process, and not require applicants to fulfil abusive requirements, including medical certification.

- The Municipality of Prishtina to continue its support and close contact with CSOs regarding the construction of the LGBTI Shelter.

Implementation of already-existing legislation/policy

- The implementation of the National Action Plan (2019-2022) continued to be flawed and expired at the end of the year. A new Action Plan is expected to be drafted at the beginning of 2023. Rule of law and respect for fundamental rights are also pillars of the European integration process and should be seen by the Kosovan government as a matter of priority.
- The government needs to properly implement its hate crime and hate speech legislation, which cover the grounds of sexual orientation and gender identity.

Legislation/policy in process

- In the first reading, the parliament voted against amendments to the Civil Code that would have opened the path to provide legal recognition to same-sex couples. Civil society has advocated for an inclusive law for years, based on the Constitution which contains a gender-neutral definition of marriage (see above). Kosovo has also been urged by the EU to pass the amendments that would provide for legal recognition of same-sex couples. Both local and international civil society organisations condemned the outcome of the vote. LGBTI organisations highlighted the importance of a Civil Code that is based on the Constitution of Kosovo and which will ensure equality for all. The initiative is supported by the Ombudsman and academia.
- The Ministry of Health has set up a Working Group to draft a PrEP protocol, which civil society has advocated for years and welcomed.
- The government launched a public consultation on the Concept Document for Mental Health. Civil society advocate for including LGBTI people in the suicide prevention plan.
- The draft legal gender recognition law, which is in line with Resolution 2048 of the Parliamentary Assembly of the Council of Europe, should be sent to parliament without delay.

### **Feedback on the European Commission's 2022 Enlargement Report**

- The EU recognises that public awareness of the rights of LGBTI people and general acceptance remains low. There have been incidents of hate speech towards the LGBTI community, especially on social media, and cases of hate crimes against LGBTI persons are still not always properly investigated and brought to justice. However, the EU also needs to clearly state in the reports that the government is failing to implement its hate crime, hate speech and anti-discrimination legislation, and should demand proper implementation of all laws protecting LGBTI people.
- Although the EU recognised that the implementation of the Action Plan 2019- 2022 was not progressing, it did not stress strongly enough the responsibility of the state to ensure full implementation of this strategic document towards advancing the human rights of LGBTI people in Kosovo.
- The report fails to integrate the concerns of LGBTI people across all topics of the report. LGBTI issues should be mentioned in every section where they are relevant.

### **Recommendations to the EU**

- The EU should keep a high focus on key reforms on LGBTIQ+ rights and continue the consultation process with LGBTIQ+ organisations to maintain an in-depth understanding of context relevant to the LGBTIQ+ population;

- The EU needs to support and push the state in the advancement of the key legislation to ensure the family rights for LGBTIQ+ people, access to legal gender recognition and access to healthcare for people living with HIV;
- The EU needs to apply pressure to state justice providers in all instances to ensure access to justice for LGBTIQ+ people and particularly in cases of SOGIESC-based discrimination, hate speech, and hate crimes;
- Support civil society in addressing the human rights of LGBTI people as an integral part of the EU accession process.

### **Annex – Kosovo’s Annual Review chapter**

ILGA-Europe’s Annual Review documents progress and trends regarding the human rights situation of LGBTI people. It allows policy makers and institutions to gain a deeper understanding of the reality on the ground for LGBTI people and civil society, which often differs significantly from legislative frameworks.

You can find the Kosovo chapter [here](#), which covers the period of January-December 2022.

## Moldova

**Expert contributions provided by: Genderdoc-M**

### Top priorities

Main legislation/policy to be drafted/adopted to ensure non-discrimination/access to justice for LGBTIQ+ people (we should focus on the priorities for the next year);

- The government should start drafting a law that would enable quick, transparent and accessible legal gender recognition for trans people on the basis of self-determination and in line with the WHO's revision of ICD-11, which came into force in January 2022, and which depathologises trans identities in all areas of life. Currently the only available process in Moldova is pathologized (requires a medical certificate) and requires the decision of the court:

The Law on Civil Status Documents contains a single provision (Article 66 "Request of modification, correction or completion of a civil status document"), which implicitly refers to transgender individuals and their right to have their preferred gender (male or female only) legally recognised. Legal gender change is possible solely on the basis of the diagnosis "transsexualism (the nuclear form)" issued after a thorough psychiatric examination and does not require any surgical interventions. The only possibility to recognize gender identity in identity documents after receiving a medical diagnosis is via decision of the court. There are no specific provisions in the Moldovan legislation that provide a fast, transparent and accessible mechanism for the legal recognition of gender for trans people.

The Parliamentary Assembly of the Council of Europe (PACE) has [called on its member states](#) to "develop quick, transparent and accessible procedures, based on self-determination". The UN Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity has also [recommended](#) that legal gender recognition should be based on self-determination, be a simple administrative process, and not require applicants to fulfil abusive requirements, including medical certification.

- In order to reduce discrimination and violence against LGBTI children, and to ensure quality and inclusive education for all children, the parliament needs to pass the draft law for the prevention of bullying in the next stages of voting, and the educational sector should introduce training for teachers on sexual orientation and gender identity, in consultation with LGBTI civil society.
- The government should start discussions with civil society on the future drafting of a same-sex partnership law to give legal recognition to same-sex couples, in order to ensure all couples are treated equally.

Currently, same-sex couples do not have the same rights as different-sex couples, as their relationship is not legally recognised. In addition, same-sex couples, in which one of them is a third country

national, do not enjoy the same rights as different-sex couples, who enjoy the right to long-term residency in Moldova. The third country partner in a same-sex couple can only stay in Moldova for three months, after which they either need to leave Moldova or apply for international protection. This discrimination remains pertinent in the context of the war in Ukraine, where many same-sex couples, where one of the partners comes from Ukraine, Belarus or Russia, are denied equal treatment, rights and benefits that different-sex couples enjoy.

The Council of Europe Committee of Ministers [recommended](#) in 2010 that member states take steps to provide legal recognition to stable couples, without discrimination between different-sex and same-sex couples. The Council of Europe has [found](#) that “it is undisputed that the relationship of a same-sex couple falls within the notion of “private life” as protected in article 8 of the European Convention on Human Rights (ECHR). In the *Schalk and Kopf* (2010)<sup>5</sup> and *Vallianatos* (2013)<sup>6</sup> cases, the ECtHR further held that the relationship of a same-sex couple living in a stable de facto partnership also falls within the notion of “family life” pursuant to article 8.

#### Implementation of already-existing legislation/policy

- Proper implementation of the law on hate crime and hate speech, which includes sexual orientation and gender identity as protected grounds. As regards prevention, the government should start systematically tackling LGBTI-phobic bullying in schools through establishment of anti-bullying programmes and inclusion of LGBTI topics in the curricula to reduce discrimination and stigma. Victims support services should be established.
- Proper implementation of the recently adopted anti-discrimination law, which includes sexual orientation and gender identity as protected grounds.

#### **Recommendations to the EU**

- Support LGBTI civil society in calling for the drafting of a law that would enable quick, transparent and accessible legal gender recognition, and support the adoption of the draft law for the prevention of bullying, in addition to measures to tackle anti-LGBTI discrimination in schools;
- Maintain dialogue with LGBTI civil society in working towards improved access for LGBTI people to their fundamental rights;
- Include LGBTI civil society in consultations and calls for proposals for actions under the EU’s [Human Rights and Democracy Action Plan](#), which specifically commits to tackling discrimination and violence against LGBTI people, and to promoting quality and affordable healthcare and education for LGBTI people;

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<sup>5</sup> <https://hudoc.echr.coe.int/eng#%7B%22dmdocnumber%22:%5B%22870457%22%5D%2C%22itemid%22:%5B%22001-99605%22%5D%7D>

<sup>6</sup> <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-128294%22%5D%7D>

- [Gender Action Plan III](#), which states that it should be read in conjunction with the LGBTIQ Equality Strategy, and highlights LGBTI women as a group at high risk of gender-based violence and domestic violence;
- Include LGBTI rights in files related to not only human rights, but also democracy and rule of law.

### **Annex – Moldova’s Annual Review chapter**

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You can find the Moldova chapter [here](#), which covers the period of January-December 2022.



## Montenegro

**Expert contributions provided by: Queer Montenegro, Spectra, LGBT Forum Progress, LGBTIQ Social Centre, Juventas**

### Top priorities

Main legislation/policy to be drafted/adopted to ensure non-discrimination/access to justice for LGBTIQ+ people (priorities for the next year)

- Draft a law to ensure legal gender recognition based on self-determination, in accordance with ECtHR practice and the new ICD-11 of the World Health Organisation, which depathologizes trans identities in all areas of life, and present it to parliament.

Currently in Montenegro legal gender recognition is available, but based on mandatory sterilisation, both to minors and adults. Since the age restriction for accessing gender affirming surgeries is 16, there is an age restriction regarding legal gender recognition.

The Parliamentary Assembly of the Council of Europe (PACE) has [called on its member states](#) to “develop quick, transparent and accessible procedures, based on self-determination”. In particular it calls for the abolition of the legal requirements of sterilisation and other compulsory medical treatments to access legal gender recognition. The UN Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity has also [recommended](#) that legal gender recognition should be based on self-determination, be a simple administrative process, and not require applicants to fulfil abusive requirements, including sterilisation and medical certification.

- Conduct a comprehensive analysis related to so-called “conversion therapy” practices and propose legislative changes which would fully penalise these kinds of human rights abuses.
- In the new revision of the Law on Prohibition of Discrimination, include an article about the prohibition to ask anyone about their SOGISC status (the law already covers SOGISC as aggravated grounds).
- Drafting and adoption of the new LGBTI Strategy 2024-2028. Continue the good practice of local LGBTI action plans and local government focal points on LGBTI rights.
- Increase capacities of the Ministry of Human and Minority Rights for the coordination and implementation of the LGBTI Strategy.

Implementation of already-existing legislation/policy

- Since the historic adoption of same-sex partnership in Montenegro in 2020, several same-sex partnerships have been registered since July 2021, however around 20 of laws remain to be harmonised and adopted in order to complete its implementation. A [lawsuit](#) has been filed against the State due to the discrimination created by the non-compliance of these laws with the same-sex partnership law. Queer Montenegro has shared with the parliamentary groups a detailed analysis of the laws which still need to be updated.
- Improve implementation of laws tackling hate crime and hate speech by improving the capacities of the prosecutorial and judicial system to adequately recognize, treat and sanction hate crime and hate speech, including effective use of aggravating grounds of sexual orientation and gender identity.

Hate speech, both online and offline, should be dealt with by the police and relevant courts as defined by the Law on prohibition of discrimination, which is the legal basis for implementing hate speech statutes. However, current practice is that all such cases are qualified under the Law on public order and peace, as disturbance of the public peace or a similar misdemeanour, rather than hate speech.

Relevant institutions should improve monitoring of hate crime and hate speech, and support LGBTI people to report. It is also important to ensure public officials are sanctioned and publicly condemned when they use hate speech or discriminatory speech.

- Solve the problem of shortage of estradiol, which has resulted in the degradation of the psychological and physical health of all women who need hormone therapy with estradiol, in particular trans women who are a vulnerable group.

The right to adequate health is enshrined in international law to which Montenegro is party<sup>7</sup> and Montenegro's national law,<sup>8</sup> and it is the State's duty to ensure this for all people, including vulnerable populations. In addition, estradiol is on Montenegro's positive list of drugs, and is covered by national health insurance. Despite years of advocacy from civil society (including submission of complaints, letters, and the Ombudsperson also requesting action) towards not only the Ministry of Health, but also Podgorica Health Center and Montefarm as well as the Health Insurance Fund, no progress has been made, implying institutional discrimination against women, especially those with a different gender identity and expression. In March 2023, the Clinical Centre of Montenegro stated that they are in the process of procuring hormone therapy (which is also not a sustainable solution), but no progress has been made since then.

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<sup>7</sup> Universal Declaration of Human Rights, Article 25; International Covenant on Economic, Social and Cultural Rights

<sup>8</sup> The Law on Healthcare <https://wapi.gov.me/download-preview/e489174f-41da-4ddb-826b-bb5a266e281e?version=1.0>

### Legislation/policy in process

- The new working group for drafting a law on legal gender recognition should continue their work and present a draft law to the parliament in 2023.

### **Feedback on the European Commission's 2022 Enlargement Report**

- Although the EU has rightfully expressed its dissatisfaction at the slow or reversing rate of progress of Montenegro towards EU accession, LGBTI human rights defenders would like to see the EU being stronger in its condemnation. Many alarming developments which impact Montenegro's EU accession process were not reported, such as the increasing influence of the church as well as Russia in the country, which is also heavily impacting human rights of vulnerable groups.
- The report has mentioned the existence of hate speech and discrimination against LGBTI people, but we need stronger condemnation of this with specific recommendations on how the government and institutions should act to reduce this.
- LGBTI issues should be mentioned in every section where they are relevant. For example, despite the inclusion of LGBTI women in Montenegro's Gender Equality Strategy 2021-2025, the European Commission failed to include LGBTI women in its section on gender equality in the Enlargement Report. It is important to acknowledge LGBTI women here as women who are at particular risk of discrimination due to their sexual orientation, gender identity or sex characteristics, and should be included in policy and programmes on gender equality, in line with the [EU's Gender Action Plan III](#) which highlights LGBTI women as a group at high risk of gender-based violence and domestic violence.

### **Recommendations to the EU**

- Reinstating funding for LGBTI and gender related topics, in accordance with the EU's GAP III and Action Plan for Human Rights and Democracy. Currently no LGBTI project receives direct EU funding. Only two LGBTI organisations receive funding from the EU via subgranting mechanisms of larger human rights organisations, but the amount received is a fraction of what these organisations received in previous years directly from the EU;
- Support civil society in addressing the human rights of LGBTI people as an integral part of the EU accession process, by reinstating funding for LGBTI issues, providing direct and visible political support, and encouraging dialogue between the state and civil society;
- Make stronger statements and recommendations to the government and institutions on how to improve the protection and advancement of the human rights of LGBTI people, including condemning strongly and publicly any anti-human rights, anti-democratic and anti-rule of law developments;

- Apply pressure on the Government and Parliament of Montenegro, as well as all institutions and decision makers, to fully harmonise the legal system and align all legislation with the same-sex partnership law.

### **Annex – Montenegro’s Annual Review chapter**

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You can find the Montenegro chapter [here](#), which covers the period of January-December 2022.

## North Macedonia

**Expert contributions provided by: Helsinki Committee for Human Rights – LGBTI Support Centre, Coalition Margins, Transforma, Subversive Front, LGBT United Tetovo**

### Top priorities

Main legislation/policy to be drafted/adopted to ensure non-discrimination/access to justice for LGBTI people (priorities for the next year)

- The government should reintroduce the draft amendments of the Civil Registry Law to parliament, in order to implement legal gender recognition on the basis of self-determination and in line with the WHO's revision of ICD-11, which came into force in January 2022, and which depathologises trans identities in all areas of life. This would also achieve the implementation of the 2019 ECtHR decision of X v. North Macedonia, which civil society and international institutions have been calling for over the past years.

In addition, the Parliamentary Assembly of the Council of Europe (PACE) has [called on its member states](#) to “develop quick, transparent and accessible procedures, based on self-determination”. The UN Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity has also [recommended](#) that legal gender recognition should be based on self-determination, be a simple administrative process, and not require applicants to fulfil abusive requirements, including medical certification.

- Adoption of the National Action Plan on LGBTI rights, which was delayed for two years, before movement restarted in 2023. The plan should include actions for monitoring its implementation, and the Government should provide financial and human resources for the implementation of the plan within predefined deadlines.
- The government should introduce a definition of hate speech in the Criminal code that explicitly includes all bias-motivated hate speech based on grounds of sexual orientation, gender identity, gender expression and sex characteristics. This is particularly important as hate speech against the LGBTI community in North Macedonia is growing, with threats levied also at LGBTI human rights defenders.

Implementation of already-existing legislation/policy

- Implementation of the Criminal Code regarding hate crimes against LGBT people continues to be seriously flawed, with ineffective responses from the police and judiciary. North Macedonia's hate crime legislation covers the grounds of sexual orientation and gender identity. Even though there was a development regarding some cases during the year, most

remain unattended. In one case, the perpetrator was charged with six months in prison, and in the other, the Public Prosecution in Skopje filed an indictment against the person who attacked a group of LGBTI activists in 2019 after Skopje Pride.

- The articles in the Criminal Code for protection from online hate speech are not being implemented for protection from homophobic and transphobic hatred. So far none of the 64 cases of hate speech on grounds of sexual orientation or gender identity reported by LGBTI civil society to the public prosecutor have been investigated. The same is true of 16 reports submitted to the Ministry of Internal Affairs. In 5 cases the criminal charges have been dismissed, in 20 there has been a notification that "there is no basis for public prosecutor's action", and the rest have received no answer.

For both of the above points it is crucial that the government finally acts to remedy this situation. LGBTI civil society have been calling for proper follow-up to hate crime and hate speech for many years. Organised anti-LGBTI hatred is growing in North Macedonia and the region more broadly, making it increasingly dangerous for LGBTI human rights defenders, and the community at large. Proper follow-up and conviction of hate crime and hate speech cases would show that anti-LGBTI hate is not tolerated, rather than encouraged.

- In order for the Law on Protection and Prevention against Discrimination to be properly implemented, a number of laws still need to be harmonised. The government should proceed with this work without delay, with an expanded understanding of harmonisation to extend to not only adding non-discrimination clauses but also adding concrete obligations, such as disciplinary procedures, reporting requirements, misdemeanour provisions for discrimination and violence where applicable.
- No notable progress has been made in implementing the 2021 Law on Prevention of Violence against Women and Domestic Violence. The law envisions gender-sensitive and sexuality education in schools and violence prevention. The full implementation of the law is of key importance in tackling domestic gender-based violence and providing survivor-centred support. Further, the only Shelter for LGBTIQ+ people - Safe House, remains without financial support from the state.
- It is of utmost importance that the budget for the National Program Against HIV is reinstated as originally planned. Last year the Ministry for Health [cut the program by 40%](#), leaving people who live with HIV, a key and already marginalised population in the country, with insufficient protection. In addition, trans women and girls should be explicitly recognised as a key population in the Nation Program, as they are an at-risk population and are currently only recognised as such in the section referring to sex workers. A specific budget should be allocated for trans sensitive services for HIV prevention.

### Legislation/policy in process

- The enabling of legal gender recognition via the Civil Code is a key priority for the LGBTI community. In March 2022 the government withdrew the draft amendments to the civil code which would have enabled legal gender recognition, although the government had approved them and they were supported by LGBTI civil society and the transgender community. In September 2022 the new working group was established. Experts and LGBTI civil society continue to call for the original draft amendments to be resubmitted to the Parliamentary procedure for adoption without unnecessary delay.
- In the government's planned amendments to the Law on Protection and Prevention against Discrimination, gender expression and sex characteristics should be added as protected grounds, in order to cover all LGBTI people, and in line with evolving international human rights standards. More safeguards should be added to the election process of members of the Commission to guarantee the independence of selected candidates and transparency and inclusiveness of the process.

### **Feedback on the European Commission's 2022 Enlargement Report**

- The 2022 report contained many more references to LGBTI issues than before, which civil society welcome. However, it is important that the chapters include clear, practical and action-oriented official recommendations on LGBTI issues, in order to address the ongoing problem of non-implementation of key laws that protect LGBTI people and their rights. This is particularly important regarding the European Commission's observations on:
  - The implementation of the anti-discrimination, hate crime and hate speech legislation. LGBTI organisations highlight the importance of systematic promotional and informative programs to be carried out by the state, state service providers and state justice providers to increase the trust of the LGBTI community in the institutions, which is currently low;
  - The drafting of the amendments to the Civil Code that would enable legal gender recognition;
  - The Law on textbooks for elementary and secondary education, which should be amended to ensure safeguards for equality, non-discrimination and protection of LGBTI rights through education. The law should include provisions for mandatory revision of all existing and all new textbooks from a non-discrimination perspective.

All these issues require the European Commission to issue stronger language and to give recommendations and calls for action to the government.

- The report chapter should include common language and recommendations in order to report on all forms of gender-based violence, with an intersectional approach, in line with the Istanbul Convention and not only limited to domestic violence and violence against women.

- The report refers to the Ministry of Labour and Social Policy cooperating with LGBTI civil society on the 2021-2025 National LGBTI Action Plan. However, not only is the Plan not adopted yet, but also the section on legal gender recognition was removed from the plan. This is of particular concern given that half of the proposed implementation period has already passed. The Commission should call on the government to reintroduce the section on legal gender recognition and adopt the plan without delay.
- The report stresses that the capacities of the authorities, law enforcement officers and legal professionals need to be further strengthened, however, it would be stronger to include the fact that responsibility lies with state institutions, including the Academy for Prosecutors and Judges and the Academy for Police, to introduce mandatory curricula on LGBTIQ+ related issues.
- The report informs about the establishment of the Inter-Party Parliamentary Group for advancing the rights of LGBTIQ persons at the end of 2020. However, it requires noting that some MPs have made homophobic and discriminatory statements, which went unsanctioned in any instance.

### **Recommendations to the EU**

- The EU should keep a high focus on key reforms on LGBTIQ+ rights and continue the consultation process with LGBTIQ+ organisations to maintain an in-depth understanding of context relevant to the LGBTIQ+ population;
- The progress reports by the EU need to contain clear, tangible, and action-oriented recommendations in order for the state to fully implement key legislation and to clarify more accurately the areas in which the state needs to progress;
- The EU needs to apply pressure to state justice providers in all instances to ensure access to justice for LGBTIQ+ people and particularly in cases of SOGIESC-based discrimination, hate speech, and hate crimes;
- The EU should support LGBTI civil society in ensuring the reintroduction of the amendments to the Civil Code that would introduce legal gender recognition in line with international standards and the 2019 decision of the ECtHR.

### **Annex – North Macedonia’s Annual Review chapter**

ILGA-Europe’s Annual Review documents progress and trends regarding the human rights situation of LGBTI people. It allows policy makers and institutions to gain a deeper understanding of the reality on the ground for LGBTI people and civil society, which often differs significantly from legislative frameworks.

You can find the North Macedonia chapter [here](#), which covers the period of January-December 2022.



## Serbia

**Expert contributions provided by: Rainbow Ignite, Labris, Da se zna!, Geten, XY Spectrum, Crisis Response and Policy Centre - CRPC, Egal, Collective Wave TIGV**

### Top priorities

Main legislation/policy to be drafted/adopted to ensure non-discrimination/access to justice for LGBTIQ+ people (priorities for the next year)

- The government should begin drafting a law that would enable quick, transparent and accessible legal gender recognition for trans people on the basis of self-determination and in line with the WHO's revision of ICD-11, which came into force in January 2022, and which depathologises trans identities in all areas of life.

Currently in Serbia, it is possible to change one's gender marker via the Law on birth registry, however, currently trans people are still pathologized and must undergo one year of hormonal treatment. Serbia's new Strategy on Prevention and Protection against Discrimination and its related Action Plan specifically mentions the drafting and adoption of a legal gender recognition law. Thus, the state needs to act upon it and establish a working group in which trans people and civil society are represented.

The Parliamentary Assembly of the Council of Europe (PACE) has [called on its member states](#) to "develop quick, transparent and accessible procedures, based on self-determination". The UN Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity has also [recommended](#) that legal gender recognition should be based on self-determination, be a simple administrative process, and not require applicants to fulfil abusive requirements, including medical certification.

- End discriminatory practices against intersex people and adopt measures to end pathologisation of sex characteristics.

Intersex genital mutilation is still performed in Serbia and there are no internal or external protocols regarding this. The Ministry of Human and Minority Rights requested and received a training on intersex issues from intersex organisation XY Spectrum.

Implementation of already-existing legislation/policy

- The government needs to properly implement the laws protecting LGBTI people from discrimination, hate crime and hate speech, including the usage of Article 54a of the Criminal Law in the indictments. Currently Serbia's anti-discrimination law covers grounds of sexual orientation, gender identity and sex characteristics. Its hate crime law covers grounds of

sexual orientation and gender identity, and its hate speech law covers the ground of sexual orientation. It is important that these laws are fully implemented, and eventually amended to cover all LGBTI people.

Currently the laws are only partially implemented. Hateful incidents continued to take place on a regular basis in 2022 and largely with impunity. The violence sharply increased in August and September 2022, following a series of hateful statements by political and religious leaders. For example, Belgrade Pride Info Centre was attacked 14 times and none of the perpetrators were prosecuted, even though many of them were identified by security camera footage. Following Europride anti-LGBTI attacks became more prevalent, with [two hate crime incidents](#) against gay men in February 2023.

- The anti-discrimination legislation needs to be properly implemented, particularly in the field of health, where discrimination still exists against LGBTI people. For example, discrimination against women who are in a relationship with another woman is significant in the field of gynaecology.
- The Parliament adopted its new Strategy of Prevention and Protection against Discrimination in January 2023, four years after the previous Strategy expired. It is of utmost importance that the implementation of this Strategy is implemented without delays and with a sufficient budget for its activities.
- In September 2022, the Serbian government banned EuroPride, which took place in Belgrade that year. This represented a breach of the basic fundamental right to freedom of assembly, breaching Serbia's Constitution and the international agreements to which it is party. Local and [international](#) civil society, the EU and Council of Europe criticised the authorities' stance. [ILGA-Europe](#) and [ERA](#) strongly condemned the events that unfolded. Serbia was [added](#) to CIVICUS Monitor's International Human Rights Watch List and received the rating of 'obstructed'. The government must ensure that freedom of assembly laws apply to everyone, and in particular in the face of, rather than in spite of, discriminatory hostility towards minorities and those attempting to exercise their right to freedom of assembly.

#### Legislation/policy in process

- The government should amend the draft law on registered partnership to include the [recommendations](#) made by civil society and the Council of Europe, before being presented to parliament for voting.

The draft law has been stalled since 2021. Its current version creates a different legal framework for same-sex couples, which does not provide them with equality as regards legally recognised

partnerships. For example, registered partnership could only be dissolved through a public notary, rather than a state registrar, which means same-sex couples would have to pay for this service.

The Council of Europe Committee of Ministers [recommended](#) in 2010 that member states take steps to provide legal recognition to stable couples, without discrimination between different-sex and same-sex couples. The Council of Europe has [found](#) that “it is undisputed that the relationship of a same-sex couple falls within the notion of “private life” as protected in article 8 of the European Convention on Human Rights (ECHR).

### **Feedback on the European Commission’s 2022 Enlargement Report**

- In its report, the EU is rightfully calling for addressing health inequalities and improving access to healthcare services for people with disabilities, people living with HIV, children and adults who use drugs, prisoners, women involved in prostitution, LGBTIQ people, internally displaced persons and Roma.
- Although the report notes that hate speech, threats and violence continued to target human rights defenders and LGBTIQ persons and that the implementation of hate crime legislation, including on grounds of sexual orientation, remains inadequate, it should also more strongly condemn this with recommendations on how the state should address this.
- The EU is rightfully raising the issue about the lack of centralised official data on hate crimes broken down by bias motivation, and recognises that due to lack of trust in institutions, cases of violence and discrimination towards LGBTIQ persons often go unreported. However, it needs to include strong condemnation of this, and guidance on how to improve disaggregated data collection of hate crimes.
- The report noted the statement by President Vucic in which he refused to sign the future law on same-sex partnership. However, the Commission should strongly condemn this as an obstacle to achieving one of the basics human rights for all people - the right to family, in accordance with international human rights standards.
- We applaud the EU for including a concrete review on the position of transgender and intersex people in Serbia, and we ask that those remarks are followed by precise and direct recommendations to the state about addressing the violence, abuse and discrimination faced by these populations.

### **Recommendations to the EU**

- Support civil society in addressing the human rights of LGBTI people as an integral part of the EU accession process;
- The EU should keep a high focus on key reforms on LGBTIQ+ rights and continue the consultation process with LGBTIQ+ organisations to maintain an in-depth understanding of context relevant to the LGBTIQ+ population;

- The progress reports by the EU need to contain clear, tangible, and action-oriented recommendations in order for the state to fully implement key legislation and to clarify more accurately the areas in which the state needs to progress;
- The EU needs to support the state and apply pressure to advance key legislation to improve the access to human rights for LGBTIQ+ people, including proper implementation of laws that protect LGBTI people from discrimination and hatred, and the adoption of the law on same-sex partnerships and the law enabling legal gender recognition.

### **Annex – Serbia’s Annual Review chapter**

ILGA-Europe’s Annual Review documents progress and trends regarding the human rights situation of LGBTI people. It allows policy makers and institutions to gain a deeper understanding of the reality on the ground for LGBTI people and civil society, which often differs significantly from legislative frameworks.

You can find the Serbia chapter [here](#), which covers the period of January-December 2022.

## Turkey

**Expert contributions provided by: SPoD, 17 May Association, HEVİ LGBTI+ Association for Rights, Equality and Existence, Intersex Turkey and Kaos GL**

### Main challenges facing LGBTI+ civil society

#### Earthquake aftermath

The earthquakes of February 2023 had a huge impact on all of Turkish society, with losses among the LGBTI+ community and civil society. LGBTI+ people in the earthquake region are not able to benefit equally from the aid, not able to stay safely in public areas and are deprived of many basic needs and humanitarian aid. LGBTI+ organisations volunteered with searches and supporting survivors and provided specific services for LGBTI+ people facing discrimination within this context.

#### Freedom of assembly

In 2022, a total of [11 Pride events](#) were unlawfully banned, including at [Boğaziçi University](#), [METU](#), in [Eskişehir](#), [Ankara](#), and [Istanbul](#). In all these instances participants defied the ban and held a gathering, but were [met](#) with police brutality, including the use of teargas and rubber bullets, and hundreds of people were detained. At Istanbul Pride, the police [attacked](#) participants and [detained](#) 373 people, 34 of whom were minors - marking the most violent crackdown to date. The police also detained journalists and harassed and detained people at random in the city if they had rainbow symbols with them. On numerous occasions, the police prevented lawyers from speaking to the detainees. At one police station, police officers [assaulted](#) a female lawyer. In total, 530 people were detained during Pride season, over the span of 37 days. As a new trend, several of the Pride marches were targeted by extremist religious and nationalist groups and were left without adequate police protection.

In addition to bans on Pride events, freedom of assembly laws were misused to restrict various events related to LGBTI+ and women's rights in 2022. Several Women's Day events [were held](#) on 8 March in Ankara, İstanbul, İzmir, Bursa, Diyarbakır, Mersin, Eskişehir, Antalya, Gaziantep, Aydın, and Balıkesir. In some cities, police tried to prevent the march. 78 people including LGBTI+ activists were detained in Antalya and İstanbul. Over 200 people were [arrested](#) in Istanbul on 25 November at the demonstration to mark the Day for the Elimination of Violence Against Women. Many were detained and assaulted by the police.

- End the abuse of Law No. 2911 Law on Meetings and Demonstrations, which is currently being used to arbitrarily detain (often with excessive police force) and charge LGBTI+ people for participating in public events, or for holding rainbow flags in the public space. The law is very vague and open to interpretation, for example Article 17 authorises the governorate to ban

public demonstrations or “postpone a certain assembly for a period not exceeding one month” or ban it in case of clear and imminent danger that a crime will be committed for the purposes of “national security”, “public order”, “prevention of crime”, protection of “public health” and “public morals” or the rights and freedoms of others. All the bans issued for Pride marches and LGBTI+ themed events reference “public health”, public morality”, “public order” and “national security”. These vague limitations on public assemblies and designation of excessive powers to police and governors, which allow for arbitrary interpretation, breach Turkey’s own Constitution (Article 34) and the ECHR (Article 11) to which Turkey is party.

- Repeal bans on public assemblies for LGBTI+ people, including Pride events and ensure no more bans are enacted.

### Legal harassment

Following the arrest and legal proceedings initiated against LGBTI+ people for attending various Prides in 2021 and 2022, almost all the trials are closed and the charges are dropped, showing how these trials are used as an attempt by authorities to harass and intimidate LGBTI+ people and activists from organising and attending Pride events. Currently the following trials remain ongoing: Boğaziçi University Pride trial (which begins in May this year), and Istanbul Pride 2021 trial (the prosecutor has appealed after the charges were dropped). Defendants include some of SPoD’s staff and board members.

On 9 December 2022, the Turkish *Justice and Development Party (AKP)* submitted a constitutional amendment on the grounds of “*constitutional guarantee for the headscarf and protection of the family*”. The amendment was submitted to the Presidency of the Grand National Assembly with the signatures of 336 MPs together with their alliance partners *Nationalist Movement Party (MHP)* and the *Great Unity Party (BBP)*, with the subsequent support of the only MP of the *Felicity Party (SP)* belonging to the opposition bloc. The threshold needed is the support of 400 out of the 600 MPs. The proposal seeks to redefine marriage by amending Article 41 of the Constitution on the protection of family by stipulating that “*marriage shall consist only of the union of a man and a woman*”. The proposal justification expresses “*the protection of institution of family and marriage against all kinds of dangers, threats, and attacked and against the impositions of pervert movements*”.

### Hate crime and hate speech

LGBTI+ people in Turkey continue to be targets of hate crime and hate speech at high rates. Turkey has no legislation protecting LGBTI+ people specifically from discrimination, hatred or violence. Frequently crimes are not investigated and violence is perpetrated by police (in particular around public events). LGBTI+ people are a target of hate speech and disinformation from political and religious leaders, including President Erdogan. For example, On 16 January 2023 President Erdogan once again [targeted](#) LGBTI+ people when talking about the draft constitutional amendments, stating

“We want to prevent the virus of heresy, which is against human nature, from poisoning our nation's existence”. On 28 November 2022 Erdogan [described](#) the "imposition of LGBT" as a "global dictatorship tool" that threatens Islamic values.

Anti-LGBTI+ rallies took place in a large number of towns and cities during the autumn of 2022, spreading hatred and misinformation about LGBTI+ people. In September, the anti-LGBTI [Great Family March](#) was [held](#) in Istanbul with the slogan “Save your family and your generation, say no to perversion”. The march was [publicised](#) on national TV with a video calling LGBTI+ people a virus, sparking widespread hate speech, and was [attended](#) by thousands. Some participants called for the [killing](#) of and [violence](#) against LGBTI+ people, criminalisation of LGBTI+ people at the constitutional level, and the shutting down of LGBTI+ organizations and [banning](#) of LGBTI+ themed events. Other marches followed, including in Ankara, Izmir, Urfa, and Konya and continued in November in Trabzon, Gaziantep, Batman, Mardin, Van, Kayseri, Diyarbakır, and Bitlis. In November, Kaos GL [filed](#) a lawsuit against the Radio and Television Supreme Council (RTÜK) for broadcasting the hate rally as a public spot.

#### Civic space/freedom of association

LGBTI+ organisations continue to face audits under the Law on Preventing Financing of Proliferation of Weapons of Mass Destruction. Court proceedings were [initiated](#) against Tarlabası Community Centre, a women’s and children’s rights organisation, for planning an event on LGBTI+ topics. The case is still ongoing.

#### Freedom of expression

LGBTI+ content is still being censored in media, television and books. In October 2022, Turkey [adopted](#) a “censorship law”. LGBTI+ content is not specifically named, but the law will be used to curb LGBTI+ content further, since in his justification for the law, Erdogan [stated](#) that reprisals are needed to protect Turkish culture and children.

### **Recommendations to the EU**

- Be prepared to provide extensive protection for LGBTI+ human rights defenders, in particular during the election campaign, after the elections, and during this year’s Pride season.
  - Continue to support LGBTI+ civil society financially
  - Provide safe spaces for LGBTI+ people to gather
  - Participate in trial observations
  - Communicate strongly to the Turkish authorities that the police must provide protection to LGBTI+ people against violence, in particular at planned events in the public space such as Prides.

- Participate in election observation, and track the instrumentalization of LGBTI+ people in this process (i.e. smear campaigns and hate speech by leaders and politicians);
- Stop supporting NGOs that produce hatred against LGBTI+ persons. The EU provides financial support through the EU-funded National Agency and the Turkish Ministry for EU Affairs to TÜGVA (Turkish Youth Foundation) and TURGEV (Turkish Youth and Education Service Foundation), who were [recipients of Erasmus+ funding](#) in 2022. These two organisations were among those who organised anti-LGBTI+ marches (see [here](#), [here](#) and [here](#)). The European Union should develop policies and mechanisms to ensure that they do not end up funding organisations which actively discriminate against marginalised groups, such as LGBTI+ people;
- Conduct high level meetings with state authorities regarding the pressure on LGBTI+ associations and implement new practices to transform attitudes towards LGBTI+ people;
- Designate Turkey as an unsafe country for LGBTI+ refugees;
- More support, both financial and otherwise, could be provided to build the capacity of Turkish LGBTI+ movement but more specifically intersex activists.

### **Annex – Turkey’s Annual Review chapter**

ILGA-Europe’s Annual Review documents progress and trends regarding the human rights situation of LGBTI people. It allows policy makers and institutions to gain a deeper understanding of the reality on the ground for LGBTI people and civil society, which often differs significantly from legislative frameworks.

You can find the Turkey chapter [here](#), which covers the period of January-December 2022.



## Ukraine

**Expert contributions provided by: Insight, Fulcrum and Gender Stream**

### Top priorities

Main legislation/policy to be drafted/adopted to ensure non-discrimination/access to justice for LGBTIQ+ people (priorities for the next year)

- The government should adopt draft law 9103, enabling legal recognition of same-sex relationships, with rights similar or equivalent to marriage, in order to legally recognize family ties of LGBTI people.

The current war in Ukraine and the fact that so many people from Ukraine had to leave their country, yet again shows the importance of legal recognition of all partnerships, as same-sex couples are currently unable to take medical decisions or have visitation rights for their partners who have been injured whilst fighting against Russia. Couples leaving Ukraine in many cases had problems enjoying temporary protection in the EU, as their unions were not legally recognised. This goes especially for couples where one partner was not a Ukrainian citizen. In August 2022, President Zelenskiy [responded](#) to a citizens' petition demanding marriage equality, stating that he would look into options to grant registered partnership to same-sex couples:

“The Family Code of Ukraine defines that the family is the primary and main unit of society. A family consists of individuals who are together live, are connected by common life, have mutual rights and obligations.

According to the Constitution of Ukraine, marriage is based on the free consent of a woman and a man (Article 51). The Constitution of Ukraine cannot be changed during a state of war or emergency (Article 157 of the Constitution of Ukraine).

At the same time, the Government worked out options for decisions regarding the legalization of civil partnerships registered in Ukraine as part of the work on establishing and ensuring human rights and freedoms. In accordance with Article 116 of the Constitution of Ukraine, the Cabinet of Ministers of Ukraine takes measures to ensure the rights and freedoms of people and citizens. Taking into account the above, I turned to the Prime Minister of Ukraine with a request to consider the issue raised in the electronic petition and inform about the relevant results.”

On 7 March 2023, MP Inna Sovsun, submitted a [draft registered partnership bill](#) to the parliament (Draft law 9103), which is supported by LGBTI civil society, and would establish the legal status, rights and obligations of different and same-sex partners. On 28 March, 44 civil society organisations launched a [petition](#) calling on the government to adopt Draft law 9103.

In its [2021-2023 Human Rights Strategy and Action Plan](#), the government specifically commits to developing a draft law on registered partnership for both different-sex and same-sex couples.

Therefore, the government should work towards ensuring the adoption of the draft registered partnership bill presented by MP Inna Sovsun without delay, in order to ensure legal recognition of same-sex relationships, with rights similar or equivalent to marriage.

- Continue the parliamentary process for Draft law 5488 on hate crime, and ensure inclusion of sexual orientation and gender identity as protected grounds.

The government's 2021-2023 Human Rights Strategy and Action Plan committed to criminalise hate crimes on grounds of sexual orientation and gender identity. All accession countries to the EU, with the exception of Turkey, have adopted hate crime legislation with sexual orientation and gender identity as protected grounds, including recent candidate Moldova and prospective candidate Georgia. Therefore, the EU institutions and European governments should call on the Ukrainian government to include sexual orientation and gender identity as protected grounds in the draft hate crime legislation currently in parliament.

- Currently Ukraine's [national recovery plan](#) does not contain any projects that would address the needs and issues LGBTI people are facing in Ukraine as a result of the war. The government should set up working groups to professionally develop such a plan, which should conduct a needs assessment of the LGBTI community in Ukraine. LGBTI civil society should form part of this working group and be regularly consulted for the development and eventual implementation of the plan.

### **Recommendations to the EU**

- Call on the Ukrainian government to adopt Draft law 9103, which would legalise registered partnership for all couples, and Draft law 5488 criminalising hate crime, with clear language including the grounds of sexual orientation and gender identity, in order to protect LGBT people;
- Ensure that LGBTI civil society are consulted throughout the process of the implementation of "RebuildUkraine", in particular as regards respect for fundamental rights and rule of law, as well as non-discriminatory distribution and use of EU funds;
- Encourage the Ukrainian government to include projects that would address the needs of LGBTI people within its national recovery plan, as LGBTI people have specific needs resulting from the war;
- The EU Delegation should consult with LGBTI civil society in the preparation of the annual Enlargement Progress report, as well as other relevant programmes related to fundamental rights and democracy, such as the Gender Action Plan III and the Human Rights and Democracy Action Plan.

### **Annex – Ukraine's Annual Review chapter**

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