

## LGBTI Enlargement Review 2024

ILGA-Europe, in cooperation with ERA – LGBTI Equal Rights Association for Western Balkans and Turkey (Regional); Aleanca, PINK Embassy, Ylberofilia, Open Mind Spectrum Albania (OMSA), Pro LGBT, Streha LGBT (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); Queer Montenegro, Spectra, LGBT Forum Progress, LGBTIQ Social Centre, Juventas (Montenegro); The National Network against Homophobia and Transphobia (North Macedonia); Rainbow Ignite, Labris, Da se zna!, Geten, 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); Gender Stream, Fulcrum (Ukraine).

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## Key messages 2024

**The EU enlargement process has leverage and needs to be fully used to support the adoption of important legislation protecting the fundamental rights of LGBTI people, as well as call out when governments advance laws that go against EU principle of fundamental rights, democracy and rule of law.**

[ILGA-Europe](#) together with [ERA – the LGBTI Rights Association for the Western Balkans and Turkey](#), presents this LGBTI Enlargement Review 2024 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 fundamental rights of LGBTI people need to be a core part of the accession process and EU institutions need to work with the authorities in each accession country to ensure the gaps are tackled and important pieces of legislation are advanced over the next year.

Over the last year, not only have we seen the worrying trends of governments challenging the rule of law, an increase in LGBTI phobic hate speech by politicians and religious leader continuing and foreign influence being exerted to challenge advances on human rights continue, but in a number of candidate and accession countries, ruling parties have been pushing legislation forward that is actively limiting the human rights of vulnerable groups including LGBTI people. We have also seen governments putting forward Russian style foreign agent laws in Georgia and Republika Srpska in Bosnia-Herzegovina. 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 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 are needed to advance the process. While in some countries progress has been too slow and the EU should ensure that important legislative processes are finally seen through (such as the legal gender recognition in Montenegro and partnership recognition for same-sex partners and a new hate crimes legislation in Ukraine), it is important to be very clear that the attempts to put forward laws that actively cancel EU fundamental rights cannot be tolerated and will need to lead to a reconsideration of the status granted by the EU.

It is especially important in this context that the EU insist that the protection of LGBTI people's human rights are a core part, as they are often falling behind the requirements. The recommendations regarding the human rights of LGBTI people in the EU enlargement reports are key in holding governments accountable to the commitments made. This also means putting an emphasis on ensuring proper implementation of the laws protecting and granting access to fundamental rights. It is key that the EU makes this a priority in all the countries, also by supporting initiatives for training and education.

Through the region of all enlargement and candidate countries, we can clearly see how foreign forces are gaining influence and are challenging alliance with EU values and fundamental rights. 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. We can see the anti-gender movement gaining more ground, spreading countless hostile and hateful statements and protests, disturbing public order and democratic processes. Politicians, religious leaders and newly formed organisations were among the most common perpetrators of hate speech, which translates into actual hate and violence against LGBTI people.

The anti-rights movement, which is well funded and coordinated, has taken root strongly in the Western Balkans region in the last years. In order to stand against this increasing influence of anti-gender forces and foreign governments trying to undermine the EU rule of law and democracy, strong civil society organisations are key as they continue to build social acceptance for fundamental rights, support vulnerable groups and are a corner stone of democratic societies.

The fact that LGBTI organisations in the Western Balkans have seen EU support decrease has further weakened their work and social cohesion in those countries. A number of LGBTI organisations had to close, and many at brink of closing, while they are facing organised attacks against their physical spaces, as well as against the legal framework which protects and guarantees their equal rights. 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.

## 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 2024.

- 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 2023 Enlargement Report (where applicable)
- Recommendations to the EU

## 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 important case of Fedotova v Russia (2023) the ECtHR identified a general positive obligation for member states to provide a form of legal recognition for same-sex couples, marking a significant departure from previous jurisprudence.

The recent [recommendations](#) from the concluding observations of the CEDAW committee in late 2023 explicitly call on the Albanian state to recognize same-sex unions, marriages, and registered partnerships conducted under private international law.

Additionally, the recommendations advocate for allowing women in same-sex marriages or de facto unions to adopt children.

Further details of the implications of non-recognition for same-sex partnerships in this concrete comprehensive [strategic litigation strategy](#).

These recommendations not only hold significance for women in same-sex relationships but also pave the way for the recognition of same-sex unions in general, including for gay men. This underscores the urgent need for proactive legal reforms to uphold the rights and dignity of LGBTI individuals in Albania (within two years, as this is an urgent recommendation).

- 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.

For the past two years work has been done for establishing a medical protocol for transgender people in cooperation with the Ministry of Health and Social Protection. This procedure will make it possible for transgender people in Albania to access hormone therapy. Work on the protocol's drafting by the working committee began in July 2023. Members of this working group include physicians from several fields and civil society organisations. At the moment, the first written draft of the protocol has

been finalised and the next meeting of the working group is expected to evaluate aspects of its content.

While the development of this protocol represents a significant milestone, it is essential to underscore our apprehension regarding its approval amidst the absence of legal recognition for transgender individuals within the Albanian legal framework. Although the protocol seeks to enhance access to gender-affirming medical services, thereby enabling more transgender individuals to embark on their transition journey, it also introduces a vulnerability. This heightened vulnerability may exacerbate instances of discrimination, particularly when the legal and factual circumstances do not align.

- There is an urgent imperative to prioritise the establishment of a comprehensive legal framework that ensures full recognition and protection of transgender individuals in Albania. Such provisions should be founded on principles of respect for bodily autonomy, self-determination, and physical integrity.
- 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

1. Revisions to the Criminal Code of the Republic of Albania have yielded advantages for the LGBTI+ community by rectifying deficiencies found in its prior iteration. Notably: a) Article 50 outlines aggravating circumstances, specifically citing sexual orientation and gender identity as motives for harsher penalties in relevant criminal offences; b) Article 100 deems homosexual relations with minors a criminal offence; c) Article 101 specifies that forcibly engaging in homosexual intercourse with minors is punishable by imprisonment, safeguarding minors' sexual integrity; d) Articles 100 and 101 apply universally to juvenile victims, irrespective of their sexual orientation or gender identity; e) Articles 102/a - 107/a extend protection by criminalizing offences that use physical or psychological violence to coerce homosexual intercourse.

2. Despite the ostensibly positive intentions behind these provisions, it's important to note that the term 'homosexual' appears in the Albanian penal code more than 21 times. This frequent mention creates a legal framework that categorizes individuals based on their sexuality, inadvertently contributing to the perpetuation of their societal othering. These [legal clauses](#) recognize only minors as victims of sexual violence when stemming from either heterosexual or homosexual relationships. They also extend recognition to women and girls in cases involving heterosexual relationships where the perpetrator is male, and to men and boys within same-sex relationships. However, these provisions overlook the broader reality that same-sex relationships encompass not just gay men, but also lesbian, bisexual, queer, and pansexual individuals.<sup>[2]</sup>

3. Cybercrime Gap: Notably absent are provisions addressing cybercrimes that incite hate speech, discrimination, and conflict against LGBTI+ individuals.

4. Criminalization of Sex Work: Albania's law prohibits and criminalizes sex work, disproportionately impacting transgender women who often engage in it. Given the inability to change gender indicators, transgender individuals face vulnerability to arrests, arbitrary sentences, and exposure to discrimination and violence among same-sex convicts. This violates their rights to dignity and physical integrity, primarily due to gender identity and expression.

Albania's hate crime and hate speech legislation includes aggravating grounds of sexual orientation and gender identity, however, its implementation is still insufficient. Newest data reveals that 43% of the LGBTI respondents personally experienced violence or discrimination in the past two years. Likewise, 30.8% were acquainted with another LGBTI person who faced similar issues. Notably, 73.8% of these incidents were linked to their LGBTI status, out of which 83% of respondents chose not to report violence or discrimination to any state institution, including the Commissioner's office, mainly fearing prejudice from the staff of independent, law and order institutions, based on the experiences of other community members, and due to the lack of trust in institutions.

Over 63% of our surveyed LGBTI+ individuals were unaware of the Commissioner for Protection against Discrimination's existence. Equally noteworthy, 83% of informed respondents who encountered discrimination never lodged a discrimination complaint with the Commissioner's office.

Over the past two years, Albania has witnessed a concerning rise in an anti-LGBT movement, spearheaded by influential political figures, religious leaders, and prominent public figures. This movement has periodically directed its hate rhetoric and actions towards the LGBTI+ communities, particularly transgender women, employing inflammatory and discriminatory rhetoric, perpetuating harmful stereotypes, and fostering public animosity. These developments are unfolding in a predominantly conservative environment, further exacerbated by the scarcity of objective information on LGBTI issues.

Against this backdrop, over the past two years, Aleanca LGBT has taken proactive measures by lodging a series of complaints of discrimination and hate speech.

Out of the six complaints filed, only one received a partially favourable decision, raising concerns about the safeguarding of these fundamental rights in the face of the growing anti-LGBTI sentiment in Albania.

The Commissioner for Protection from Discrimination, in his [annual report](#) presented to the Parliament, highlighted that their office received several LGBTI-related hate speech reports. In the report, the independent body of the Commissioner for Protection from Discrimination emphasized the need to strengthen the capacities of various parties to deal with the protection and promotion of minority rights, with a specific mention on the protection of the rights of the LGBTI community, and stressed the importance of the fight against hate speech in accordance with the standards and recommendations of established by the Council of Europe.

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 address that there is an pressing need to:

- Ensure the rigorous implementation of the National Action Plan for LGBTI+ Persons 2021-2027, with dedicated resources, monitoring mechanisms, and accountability measures to track progress and address challenges effectively.
- Foster collaboration between government agencies, civil society organizations, and international partners to implement the action plan comprehensively, leveraging expertise, resources, and support to advance the rights and well-being of LGBTI+ individuals.
- Conduct regular evaluations and reviews of the action plan's implementation, soliciting feedback from LGBTI+ communities and stakeholders to identify gaps, adjust strategies, and improve outcomes over time.
- Promote public awareness and engagement regarding the implementation of the national action plan, ensuring transparency, accountability, and participation in efforts to promote inclusivity, equality, and dignity for all LGBTI+ individuals.
- Properly implement the National Strategy for People Living with HIV 2020-2025, in particular provision of adequate care for 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

- Currently, no law recognizes partnership or cohabitation between persons of the same sex, in violation of constitutional guarantees. Despite the Ministry of Social Welfare and Youth (now Ministry of Health and Social Protection) drafting legal proposals for changes in this regard, Albania has not taken any measures to amend the Family Law regarding the cohabitation of LGBTI individuals. While LGBTI civil society organisations continue to advocate through discussions and lobbying, the stance of policymakers remains unchanged.

#### **Feedback on the European Commission's 2023 Enlargement Report**

- The European Commission's 2023 Enlargement Report on Albania provides a detailed examination of the socio-economic and political landscape, with particular attention to the challenges faced by marginalised groups, including LGBTIQ+ individuals.
- While the report commendably highlights the pervasive discrimination and obstacles encountered by the LGBTIQ+ community across various sectors, such as healthcare, education, employment, and legal recognition, there are notable gaps in its recommendations and data coverage that require a more comprehensive analysis.
- The report aptly underscores the prevalence of discrimination against LGBTIQ+ persons in Albanian society, acknowledging their vulnerability to physical aggression, hate speech, and social marginalisation, particularly in rural areas. It rightly emphasizes the urgent need for legislative reforms and societal awareness campaigns to combat these disparities and



promote inclusion. However, a closer examination reveals certain deficiencies in the report's coverage and recommendations.

- While the report highlights the challenges faced by LGBTIQ+ individuals in accessing essential services like healthcare and education, it does not provide specific recommendations to address these issues comprehensively.
- In the realm of healthcare, the report mentions the limited access to primary and sexual reproductive healthcare services faced by LGBTIQ+ individuals, as well as the discrimination and fear of mistreatment they experience in healthcare settings. However, it falls short of proposing targeted measures to address these barriers, such as training healthcare providers on LGBTIQ+ cultural competency and sensitivity, ensuring the availability of gender-affirming care for transgender individuals, and allocating resources to address the specific health needs of the LGBTIQ+ community.
- Similarly, while the report acknowledges the discrimination faced by LGBTIQ+ asylum seekers and individuals in Albania's asylum procedures, it does not offer concrete recommendations to improve their access to asylum or ensure their protection from persecution based on sexual orientation, gender identity, or sex characteristics.
- Furthermore, the absence of data collection specifically related to the LGBTIQ+ community in national statistics and population census is a significant oversight. Without accurate data on the experiences and needs of LGBTIQ+ individuals, policymakers are unable to formulate targeted interventions to address discrimination and promote inclusion effectively.
- The report lacks recognition of the importance of inclusive data collection in understanding the lived realities of the LGBTIQ+ community and shaping evidence-based policies and programs to support their rights and well-being.
- The European Commission's 2023 Enlargement Report mentions the importance of correctly implementing the national action plan for equality, inclusion, and participation of Roma and Egyptians in Albania, but fails to similarly address LGBTIQ+ rights. This oversight is concerning given the significant challenges faced by LGBTIQ+ individuals in Albania and exacerbates their marginalization within the broader context of minority rights. Additionally, specific data reveals the lack of proper implementation of this plan, as evidenced by the fact that 93% of the LGBTIQ+ population in Albania reported never hearing about it.
- While the European Commission's report provides valuable insights into the challenges faced by LGBTIQ+ individuals in Albania, there is a clear need for more specific and comprehensive recommendations to address their rights and well-being. Greater emphasis on legislative reforms, inclusive policies, targeted interventions in healthcare and asylum procedures, and inclusive data collection is essential to ensure meaningful progress towards equality and inclusion for all members of the LGBTIQ+ community in Albania.

## Recommendations to the EU

- The EU should advocate for the further explicit inclusion of LGBTIQ+ concerns in the national legal framework, ensuring that specific measures are developed and implemented to address the unique challenges faced by LGBTIQ+ individuals in Albania. This includes the formulation

of targeted policies, programs, and initiatives to promote equality, combat discrimination, and safeguard the rights of LGBTIQ+ communities.

- The EU should prioritize initiatives aimed at raising awareness about the existing national action plan (NAP 2021-2027). Efforts should be made to ensure that the general public and LGBTIQ+ individuals are informed about LGBTIQ+ rights.
- The EU should periodically monitor and evaluate the implementation of national legal guarantees, with a specific focus on the inclusion of LGBTIQ+ concerns. This may involve conducting regular assessments, gathering data on the experiences and needs of LGBTIQ+ individuals, and engaging with civil society organizations to track progress and identify areas for improvement.
- The EU should continuously provide technical assistance and capacity-building support to relevant government agencies, civil society organizations, and other stakeholders involved in the implementation of the national action plan. This may include training programs, workshops, and knowledge-sharing initiatives to enhance understanding of LGBTIQ+ issues and strengthen the capacity of actors to effectively address these concerns.
- The EU should continue to advocate for legislative reforms to protect and promote the rights of LGBTIQ+ individuals in Albania. This includes supporting the measures to ensure legal recognition of gender identity, same-sex partnerships and the protection of family and parenting rights for LGBTIQ+ people.
- The EU should continuously exert pressure on state authorities to effectively enforce existing legislation and hold perpetrators of discrimination and hate crimes accountable.
- The EU must prioritize the inclusion of explicit recommendations and direct mention of LGBTIQ+ issues in its operations, avoiding generalistic language and specifically naming our communities and their unique challenges.

## **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 2023.

## **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. During 2023 Government of FBiH and Federal Ministry of Interior also urged the Federal Ministry of Health to adopt bylaw that would make LGR quick, transparent and accessible. However this process is not going forward because of the lack of political will within Federal Ministry of Health.

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.

- 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

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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.

- Ensure full and timely implementation of the new National [LGBTI Action Plan](#) 2021-2024 which was [adopted](#) in late July 2022. 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 to be amended to include SOGI as is the case already with Republika Srpska.

In late March 2024, Brcko District of BiH included hate speech provision based on SOGI in their Criminal Code.

- 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.

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 have been pressing 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.

In July 2023, a European Parliament report [called](#) on the government to ensure LGBTIQ+ people can exercise their freedom of assembly and that they are protected from violence. The report condemns the attacks in Banja Luka.

Good practice from 2023 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 city in Republika Srpska to take this important step. Currently, there is only one prosecutor's office in RS that didn't appoint contact person. All contact persons 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.
- Federation of Bosnia and Herzegovina should appoint experts to draft a Law on same-sex partnership of FBiH. In order to do so, Government of FBiH should force the Federal Ministry of Health to appoint their expert (all other ministries did so) or cancel them from the drafting because this process is also stalled because of the same actor as in LGR advocacy
- Government of RS should restrain from their advocacy to remove gender identity as protected characteristic from provisions of the Criminal Code of RS
- Government of RS should revoke their intended measures to suppress the work of Gender Centre of the Government of RS
- National Assembly of RS should not adopt so-called "Foreign Agent Law"

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. In 2023, the Federal Government instructed the Ministry of Justice to nominate experts who will draft the same-sex partnership law, with SOC members as observers. However, the expert group has not yet formed because Federal Ministry of Health blocked this process as they did also in LGR advocacy. In February 2023, a same-sex couple filed the first-ever appeal to the Constitutional Court after their same-sex partnership, issued in Croatia, was not recognised by local authorities. In March 2023, a lesbian woman filed an appeal to the same court claiming her right to inherit her partner.

- 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 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

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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.

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 and 2023. 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 2023 Enlargement Report

- Democratic and human rights backsliding going on in Republika Srpska has to be recognized more firmly in the report as it directly aims to obstruct implementation of key priorities set upon the Commission to BiH. Recent anti gender trends in Republika Srpska directly affect Priority 9 (*Strengthen the protection of the rights of all citizens, notably by ensuring the implementation of the legislation on non-discrimination and on gender equality*) and key priority 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*), as well as key priority 11 (*Ensure an enabling environment for civil society, notably by upholding European standards on freedom of association and freedom of assembly*).
- 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

- Insist on effective participation of civil society in the negotiating process.
- 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. Strong support is needed for projects and programmes countering anti- human rights and anti-gender actors in BiH.
- 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, anti-gender and anti-rule of law developments;
- Insist on combating discrimination against LGBTIQ in the negotiating process through enabling same-sex partnerships, legal gender recognition aligned with human rights standards for trans people.
- Take firm stance and proactive action against anti-gender and anti-human rights actors that are gaining more political ground in BiH.

## 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 2023.

## Georgia

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

### Top priorities

Since the EU granted candidate status to Georgia in December 2023, the Georgian government has been going back on some important commitments on fundamental rights made and is actively proposing legislation to further undermine fundamental rights.

- In March this year, the gender quote which was introduced in to fulfil a requirement set out in the 9 steps to accession by the EU, was withdrawn.
- Only months after the country was granted candidates status, in March the ruling Georgian Dream party [announced](#) the initiation of two draft constitutional laws on the “protection of family values and minors.” This draft constitutional law would define marriage as a union of a ‘genetically male and a genetically female’ who are at least 18 years old; erase adoption rights of single parents and same-sex couples; prohibit and retrospectively annul legal gender recognition, as well as block access to trans-specific healthcare; as well as prohibit any ‘popularizing same-sex family or intimate relationships, incest, adoption or foster care of a minor by a same-sex couple or a non-heterosexual person, medical interventions related to gender reassignment, or the non-use of gender-specific terminology’. Providing any information on LGBTI people and same-sex families in public private education would equally be forbidden.
- On the 3<sup>rd</sup> April, the Georgian government re-initiated a foreign agent law. Now called the Transparency of foreign influence law, it requires for all organisations that receive 20% or more from foreign sources, to declare all their income and expenses (which they are doing this already) and introduces a paragraph allowing the Ministry of Foreign Affairs to investigation of any of these organisations if they wish to do so.

All these initiative go against the fundamental values of the EU and fundamental rights, such as the right to freedom of expression and freedom of speech, the right to non-discrimination and equality. The EU needs to clearly call out these legal initiatives by the Georgian ruling party and needs to make clear that by advancing such laws, contracting human rights, Georgia is endangering the candidate status.

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", and in March 2023 specifically [called](#) on Georgia to put in place a clear LGR framework. 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.

Regarding the implementation of *A.D. and others v. Georgia*, on 6 July 2023, the first Applicant A. D. approached the LEPL Public Service Development Agency to change his gender marker. On 26 September 2023 this was refused. №001223106346 Tbilisi Bureau of the Agency indicated the applicant's failure to produce a certificate which would affirmatively state that "with anatomical structure, he is male" as the basis for declining his request. There have been no legislative amendments, and the situation for trans persons attempting to amend their gender markers remains unchanged. In October 2023, NGOs submitted a [report](#) on this matter.

- 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.

<sup>4</sup> <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-221237%22%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.
- Ensure Freedom of assembly and safety of participants

Preceding the Tbilisi Pride Week, held in July, government representatives, religious leaders, and far-right extremists of the Alt-Info made countless anti-LGBT statements (see [here](#) and [here](#)). Alt-Info spread hateful messages for days prior to the event and called on people to join efforts to attack and disrupt Pride. On 8 July, about 2,000 violent far-right protesters [broke](#) the police cordon, and stormed and [attacked](#) the venue where the Pride festival was [scheduled](#) to take place. Instead of expelling the mob, the police [evacuated](#) the Pride organisers, who had to [cancel](#) the event. In a [joint statement](#), human rights groups have [emphasised](#) that the police [failed](#) in its duties to protect the participants. The organisers [suspect](#) that the government coordinated the disruption with the far-right Alt Info group and the evacuation [was](#) the default plan all along.

The [Public Defender](#), several [politicians](#), [Embassies](#), [Council of Europe](#) and UN mandates [condemned](#) the violence. The Public Defender [affirmed](#) that it was the state's responsibility to protect the Pride participants. The European Parliament's LGBTI Intergroup [urged](#) the European Commission and the Equality Commissioner to condemn the attack and [impose](#) targeted sanctions on Alt-Info and its leader, Konstantin Morgoshia.

The Ministry of Internal Affairs has launched an investigation into the events surrounding the July 8 Pride festival. It should be noted that the investigation is only going under 2 articles of the criminal code, whereas Tbilisi Pride and its lawyers allege that 7 additional articles were violated.

The articles being investigated:

- Theft (Article 177 of the Criminal Code) and,
- Damage or destruction of property (Article 187 of the Criminal Code).

According to the decision of October 3, 2023, [the prosecutor of the case refused to grant the status of victims](#) to the organizers and participants of the Pride festival who were evacuated because of the violent attack. According to the prosecutor's resolution "At this stage, the combination of facts and information in the criminal case is not enough to conclude that the above-mentioned specific persons were harmed as a result of the crime."

The lawyers appealed to the mentioned superior prosecutor.

[The superior prosecutor also rejected the appeal and refused to grant the status of victims](#) to the organizers and participants of the pride festival. The resolution of refusal included the same arguments as mentioned

### 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 2023.

## **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."

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).

- 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.

Regarding legal gender recognition Kosovo does not have specific laws regulating this matter, there is a Draft Law on Civil Status, proposed by the Government of Kosovo, which grants every citizen of the Republic of Kosovo the right to change their gender marker. Therefore, any citizen who is convinced that the gender recorded in the civil status does not correspond to their gender identity may request a gender change at the Civil Status Office through simplified procedures, but this Draft Law has yet to be voted by the parliament, as such individuals in Kosovo face challenges in obtaining legal recognition of their gender identity and the procedure is done through a lengthy court process, such as the case of [Blert Morina - A.nr. 1822.2018](#) from the Basic Court of Pristina, Administrative Department.

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 was drafted at the end of 2023, but it is not yet finalised. 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 covers 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 advocates 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.

#### **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
- 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**

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You can find the Kosovo chapter [here](#), which covers the period of January-December 2023.

## 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. This could be modelled on the Spanish law adopted in 2023. 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. Applicants often wait over 24-48 months for a final judgment. This situation results in economic vulnerability, high unemployment rates, widespread discrimination, and increased suicide rates.

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.

A trans woman was denied service in a bank due to the mismatch between her documents and her gender expression. Her complaint to the Equality Council brought a [decision](#) confirming the discrimination and recommendation to the bank to take measures to prevent such situations in the future.

- 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.

On February 2, Alexandr Nesterovschi, a deputy from the Communist and Socialist Bloc, proposed including in the agenda of the Parliament's plenary session a [bill](#) that bans "LGBTI propaganda" in schools. The parliamentary majority rejected this initiative.

- 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.

Following the ruling of the European Court of Human Rights on *Fedotova v. Russia*<sup>7</sup> in January 2023, family rights [became](#) a heated topic in Moldova. The Court affirmed that the lack of legal recognition for same-sex couples is a violation of the right to private and family life (article 8 of the ECHR). In June 2023, the People's Advocate, Moldova's NHRI, [said](#) the state will have to find a solution to comply with the ECtHR ruling.

#### 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.

Hate speech by politicians and religious leaders remained a serious issue this year, and the People's Advocate, Moldova's NHRI, expressed [concerns](#) about hate speech perpetrated by politicians. When hate speech is pronounced by high-level authorities (members of pro-Russian parties or church representatives), the cases are often dismissed in court. Judges frequently make hastily and poorly argued decisions, suggesting potential corruption influences. We recommend that authorities closely

<sup>5</sup> <https://hudoc.echr.coe.int/eng#%7B%22dmdocnumber%22:%5B%22870457%22%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>

<sup>7</sup> <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22002-13353%22%5D%7D>

monitor such cases, especially as we enter the election period. Hate speech will only intensify in 2024 and 2025 if not addressed through the rule of law.

- Proper implementation of the recently adopted anti-discrimination law, which includes sexual orientation and gender identity as protected grounds.

### **Feedback on the European Commission's 2023 Enlargement Report**

- No mention of the key priorities of legal gender recognition, same-sex partnership recognition and an anti-bullying law

Passage to be corrected:

"Civil society initiatives have also been targeted; for example, an anti-bullying school campaign organized by the NGO Genderdoc in cooperation with the Ministry of Education was recently attacked. Opponents started a petition and threatened to sue those educational institutions that participated in the campaign and urged heads of educational institutions not to take part in such campaigns. In one case, the Equality Council examined statements made by two deputies during televised broadcasts, which were subsequently widely shared on social media, and found them to be hateful and discriminatory."

This campaign was not organised by GENDERDOC-M but by the participants of a training on campaigns organised by GENDERDOC, the campaign's author was a representative from the NGO Information and Documentation Center for Children's Rights. It was not organised in cooperation with the Ministry of Education; on the contrary, the Ministry issued a statement that it was not involved in this campaign in any way.

### **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;
- [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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the ground for LGBTI people and civil society, which often differs significantly from legislative frameworks.

You can find the Moldova chapter [here](#), which covers the period of January-December 2023.

## 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)

- Adopt 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 depathologises 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.
- The new Law on Prohibition of Discrimination was sent to EC in December 2023 and the situation has been status quo since then. There is a pressing need for this Law to be adopted as soon as possible.
- Adoption of the new LGBTI Strategy 2024-2028. New working group is created and working on the new Strategy. This time the strategy should be adopted as per the working group recommendations.
- 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



- Following the landmark adoption of same-sex partnership legislation in Montenegro in 2020, there have been several registrations of same-sex partnerships since July 2021. However, despite this initial progress, approximately 20 by-laws still require harmonisation and adoption for full implementation. A [lawsuit](#) has been initiated against the State citing discrimination resulting from the non-compliance of these laws with the same-sex partnership legislation. Queer Montenegro has submitted a comprehensive analysis of the remaining laws requiring updates to parliamentary groups for review and action.
- 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.

Still several cases are pending with any resolution (attack on a trans man since 2019, the cases of attack and threats to a trans woman HRD, cases of threats to a gay activist). 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.

- Partial solution to 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.

Addressing the availability of Estradiol hormone for trans women necessitates a systemic solution that goes beyond temporary fixes. While cooperation with clinical centres can provide short-term relief, it falls short of addressing the underlying issues. Relying on clinical centres to purchase therapy is not within their usual scope of work and is subject to the whims of management and political will, potentially creating barriers to consistent access. Moreover, requiring trans women from across the country to travel to the capital city multiple times a week imposes significant logistical and financial burdens. This approach also risks exacerbating shortages and perpetuating unequal access to essential healthcare. A systemic solution requires comprehensive policy changes that prioritise equitable access to hormone therapy for all individuals who need it, regardless of their geographic location or socioeconomic status.

### Recommendations to the EU

- The adoption of the Draft Law on Legal Gender Recognition is a key step for progress on chapter 23, as it would contribute to equality and non-discrimination for trans people and bring Montenegro's current legal gender recognition framework in line with European and international standards, including respecting the case law of the ECtHR. It is crucial for the EC to highlight this as a priority in the negotiations with the EU.
- Reinstate 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

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 Montenegro chapter [here](#), which covers the period of January-December 2023.

## North Macedonia

**Expert contributions provided by: The National Network against Homophobia and Transphobia**

### 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 (LGR) 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 depathologizes trans identities in all areas of life.

No progress has been made towards establishing legally regulated gender recognition procedures, following the ECtHR judgement from January 2019. We strongly condemn the decision of the Government of the Republic of North Macedonia (MK) to withdraw the Draft Law on Civil Registry, which included a chapter for regulating the procedure for legal gender recognition (LGR). The draft law was revoked a day before it was reviewed by the Parliamentary Committee on the Political System and Inter-Ethnic Relations. Moreover, in the days before the scheduled session of the Parliamentarian Committee and after the revoking of the draft law, there has been an avalanche of transphobic and homophobic hate speech by the MPs and other stakeholders, which significantly is contributing to the further strengthening of the social stigma against transgender people, as one of the most marginalized communities in the country. The transphobic narratives continued to prevail in public to this day. We

strongly condemn the refusal to put the Law on Civil Registry (LGR) proposed by 5 MPs (members of the Inter Party Parliamentary Group for Advancement of LGBTI rights) on the National Assembly Agenda.

Therefore, we ask:

1. To support the implementation of the ECtHR judgement by encouraging the state to restart the procedure for adopting the draft law on the civil registry: the government should re-adopt the draft law and re-submit it to the parliamentary procedures.
2. To ensure a safe space for a fruitful debate between civil society and all concerned political actors.
3. To consider the importance of the negative impact this decision has on the lives of transgender people and to ensure the above-listed support promptly.

- **Legal recognition of same-sex couples**

The legal framework does not allow for the official recognition of same-sex couples. Denying same-sex couples the legal recognition of their relationships perpetuates discrimination and inequality and undermines the country's commitment to human rights and democratic values. It also deprives them of the legal benefits and protections that come with recognized partnerships, such as inheritance rights, healthcare decision-making, and social security benefits, putting them at a disadvantage compared to their heterosexual counterparts. By allowing same-sex couples to officially register their relationships, North Macedonia would demonstrate its commitment to promoting equality and inclusivity and would help to ensure that all of its citizens are treated with dignity and respect. Failure to act on this matter risks further harm to the LGBTIQ+ community and contradicts international standards and principles of non-discrimination.

Therefore, we ask that the legal framework should be revised to allow for the official recognition of same-sex couples.

- **Stereotypes and discriminatory content in textbooks and in education**

No progress has been made concerning the removal of the negative stereotypes and hate speech toward LGBTIQ+ people and women in textbooks. This problem has been addressed in the draft Law on textbooks and other didactical materials. The proposed law included procedures for tackling gender and other stereotypes within official textbooks. We strongly condemn the revoke of the proposed Law on textbooks and other didactical materials by the Ministry of Education and Science, which in comparison with the previous one was a substantial improvement concerning equality and non-discrimination.

There is a notable increase of peer bullying based on sexual orientation and gender identity. Youth LGBTIQ+ students feel that the school system cannot offer safety and appropriate response to homophobic and transphobic bullying. As a result, youth LGBTIQ+ students are obliged to change classes, schools, and many times to move out from their cities (especially related to youth LGBTIQ+ students from smaller cities). The school administration is not trained or sensible enough on how to respond to peer-based bullying based on sexual orientation and gender identity and often the measures are directed towards depriving the full expression and social interactions of LGBTIQ+ youth, instead of working with the aggressors.

Therefore, we ask:

1. The Ministry of Education and Science to re-submit the Law on textbooks and other teaching materials in the parliamentary procedure and to harmonize the Educational Laws with the Law on prevention and protection against discrimination
2. The Ministry of Education and Science to change the existing Law for secondary education and include mechanisms for preventing discrimination, bullying and violence based on SOGI;
3. The Parliament of North Macedonia and all MPs to create a space for fruitful debate that puts the best interest of the kids and youth in the first place.

- **National Action Plan for LGBTI**

No progress has been made with the adoption of the National Action Plan (NAP) for LGBTI within the Ministry of Labour and Social Policy. The NAP was finalised in 2020 and it included a clear plan for tackling issues from 2021 to 2025. The NAP is still waiting for adoption in the Ministry.

Therefore, we ask the Ministry of Labour and Social Affairs to adopt and start implementing the NAP for LGBTI.

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

- Hate Speech based on Gender, Sexual Orientation and Gender Identity

During this reporting period on the platform [www.govornaomraza.mk](http://www.govornaomraza.mk) 1171 cases of hate speech were registered, out of which 298 on the grounds of sexual orientation and gender identity. Further, there has been a notable increase in Coalition Margins documented cases (13) of hate speech against LGBTQI+ individuals. The rise is primarily attributed to heightened activism within the anti-gender movement supported by religious leaders from 5 denominations, including the main voice of the Macedonian Orthodox Church, which became the primary source of such hate speech incidents.

One instance involved Orthodox Bishop Jakov Stobiski, a vocal figure in the anti-gender movement, who targeted the executive director of the Coalition Margins during a public debate in June 2023. His two-hour tirade featured transphobic, anti-LGBTIQ, and anti-gender rhetoric, sparking a subsequent wave of harassment against her, including the malicious screening of her interview and the circulation of a defamatory image associating her with a swastika symbol online.

Despite condemnation from the Commission for Prevention and Protection of Discrimination (CPPD), the Bishop refused to apologize, while state authorities failed to take action against him or address hate speech cases inspired by his remarks. Additionally, transgender rights activists, notably the coordinator of TransFormA, faced relentless hate speech attacks on social media, further highlighting the pervasive nature of discrimination.

Furthermore, instances of hate speech extended to political spheres, exemplified by the political party Integra disseminating explicit hate speech based on sexual orientation and gender identity through various online platforms. Despite legal recourse, the primary public prosecutor's office dismissed the criminal complaint, exhibiting biased and unprofessional conduct that tacitly endorsed homophobic views.

Overall, despite recognition of discrimination by the CPPD, the inadequacy of criminal justice protection perpetuates a culture of impunity, leaving LGBTQI+ activists vulnerable to ongoing harassment and silencing attempts by anti-gender groups and broader society.

Therefore, we ask:

1. The Ministry for internal affairs and the Public Prosecutor's office to process cases of hate speech based on SOGI timely according to the legal regulation.
  2. Ensure prompt and effective investigation and prosecution of hate speech cases
  3. Changes to the Criminal Code, regarding inclusion of sexual orientation and gender identity in the criminal acts referring to hate speech and full harmonization of the Criminal Code with the Law on prevention and protection against discrimination.
- Hate Crime based on Gender, Sexual Orientation and Gender Identity

**Hate motivated violence was documented in two cases.** In one case the victim was a transgender woman from a rural area. The violence happened in a public space, the perpetrator got out of a vehicle and started beating the victim on the head with his fists because she was obstructing his way. At the same time, he threatened to kill her if she reported to the police, after which the victim did not report out of fear. The other case is against gay men, foreigner visiting the country and it happened after he and the perpetrator attended a party in the LGBTI social space "Komitet". In this of bodily injury caused by hate, the police refused to recognize the crime as a hate crime.

**Other forms of hate motivated violence (verbal violence, insults, threats, harassment, hate speech and stalking) were documented in 21 cases.** 7 of those cases happened in or in the soundings of the LGBTI social space "Komitet". 10 of the cases happened in public spaces and 4 on social media. One of the cases in Komitet was reported in Komitet but it was recorded just as a complain. Again, the police failed to recognize the hate motivated stalking and harassment.

**Domestic violence** is documented in 3 cases. One against a transgender women by the foster family and two against lesbian couple where the perpetrator is the ex-husband of one of them.

**Bullying** in secondary school against a gay men is documented in one case. The case is reported to the CPPD. (Unpublished) Data from a research is showing that bullying against LGBTQI+ in schools is a widespread problem and it is usually characterized by verbal and psychological violence by peers, in some cases even teachers, lack of support for the LGBTQI+ student from the professional services and teachers in the school, failing to act to complains, even when acting they don't address the homophobic and tranphobic behaviors, usually accompanied by blaming the victim for the problems in the schools and labeling them as problematic, uncooperative etc.

**One case of discrimination in employment** against a trans women is documented in the reporting period.

**Discrimination against people living with HIV** is documented in 9 cases, 8 in healthcare and 1 in employment. Mostly the discrimination is done by refusing health services, disrespecting the right to privacy and announcing the HIV positive status to everyone in the hospital, treating patients as infected with plague, avoiding them and using 3 pairs of gloves, and writing with big letters “HIV+” on the medical records displayed on the hospital bed. The Coalition Margins initiated court procedure for discrimination for one of those cases.

Two trans people complained about **untimely execution of the decisions for legal gender recognition** by the Biro for birth records and the Ministry of interior.

Therefore, we ask:

- 1) Ensure prompt and effective investigation and prosecution of hate crimes by ensuring that bias motives are taken into consideration throughout criminal proceedings;
  - 2) Take appropriate measures to facilitate the reporting of hate crimes by victims, including measures to build trust in the police and other state institutions;
  - 3) Collect and publish comprehensive and comparable data on hate crimes, as far as possible including the number of such incidents reported by the public and registered by law enforcement authorities; the number of convictions; the bias motives behind these crimes; and the sentences handed down.
- Shrinking space for civil society and LGBTI activism

In North Macedonia, anti-gender organizations have been present for around 4 years, creating strong hostile and exclusionary social surroundings. The period since the last Progress Report cycle marks a steep rise of public discourse presence by extremist, radical anti-gender groups who promote bigotry, dehumanise people based on their sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) and foster stigma and intolerance among their supporters often by using fake news and disinformation. This trend is generated through orchestrated and well-resourced strategies that negatively impact the progressive recognition of human rights standards concerning gender equality and sexuality.<sup>8</sup>

The anti-gender movement in MK is a structured network of 30 entities (registered or non-registered organisations, political parties, businesses, religious groups, and anti-abortion and nationalistic groups). Most influential and active anti-gender actor is the Macedonian Orthodox church. They mainly mobilise around the legal initiative on legal gender recognition (LGR), gender equality law and the inclusion of optional Gender Sensitive Education and Comprehensive Sexual Education in elementary schools. Their rhetoric is organised around several pillars: a) gender ideology (attack on gender studies, biological sex as only true and real, anti-LGR), b) right-wing populism (CSOs as corrupted elite, while they are the “common people”), c) trans-exclusionary feminism (trans women

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<sup>8</sup> Cvetkovikj, I., and Velichkovska, M., (2022). *Who is Afraid of Gender? - Analysis of the key strategies and narratives of the anti-gender movement in North Macedonia*. Coalition Margins. Available at: <https://bit.ly/3LxQrWR>.

as a threat to women and children). All these pillars advance the narrative that trans rights violate and undermine women's rights.<sup>9</sup>

Over the past year, the anti-gender movement led campaigns through an avalanche of false news and disinformation on social media, filled with hate speech and targeting of human rights defenders, advocacy before institutions, screening of propaganda films (What is a woman?),<sup>10</sup> public debates and public presentations. These events were supported by anti-gender actors, religious groups, psychological associations, and municipal officials. The explicit focus of these campaigns was to oppose gender equality and gender identity, directly attacking LGBTIQ+ people, especially transgender individuals. During these events, false interpretations of draft laws related to gender equality and legal gender recognition were propagated, promoting LGBTIQ-phobia and transphobia, labelling CSOs and activists as "evil ambassadors of Satan," advocating exorcism for transgender people, and with all that significantly contributing to an atmosphere of increased intolerance and stigma. Apart from the Minister of Labour and Social Policy, no other State representative publicly condemned these narratives.

In April 2023, Bishop Petar, Metropolitan of Prespa-Pelagonia Orthodox Church, in the Easter epistle, criticised feminism and gender equality in his Easter epistle, labelling them as a dangerous and toxic ideology: "*Our society is under threat by an even more dangerous (than feminism), destructive and toxic ideology - gender equality! This ideology, with its manipulative terminology, is blasphemous, unnatural, perverted. God created them as male and female, and anything else changed, diverse and different from God's creation is abnormal and therefore unacceptable.*"<sup>11</sup> This statement did not receive condemnation from any State representative. Moreover, the Bishop was subsequently invited to participate in several televised debates on national channels, where he continued to express his negative views on gender equality and transgender individuals, inciting further intolerance and societal polarisation.

In June 2023, the Macedonian Orthodox Church (MOC) organised a protest calling for the State to abandon the adoption of draft laws on Gender Equality and Civil Registry (for LGR), claiming these laws seriously threatened society.<sup>12</sup> In a video message, Archbishop Stephen called for a protest against the proposed laws "to protect the past and secure the future... to fulfil the obligation towards God and the human kind."<sup>13</sup> The CSOs strongly condemned the MOC's protest, characterising it as a direct encroachment on the secular nature of the State, a disregard for the Constitution, and a failure to acknowledge the real-life situations of women in the country.<sup>14</sup> Following the same practice, this event received no condemnation from any State party.

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<sup>9</sup> *ibid.*

<sup>10</sup> The author of the movie "What is a Woman?," Mathew Walsh, is an American right-wing political commentator and activist self-proclaimed as theocratic fascist, <https://bit.ly/3Rb4DIF>.

<sup>11</sup> Telma. *Bishop Petar, with a scandalous Easter epistle, said that gender equality is perverted.* Available at: <https://bit.ly/48rYuOO>.

<sup>12</sup> Telma. *MOC with a call for a nationwide protest after the activists' protest, while the views clash with the non-governmental ones.* Available at: <https://bit.ly/3ELjDFS>.

<sup>13</sup> Macedonian Orthodox Church. *Archbishop Stefan: We have a sacred duty to continue what we have received and inherited from our ancestors!* Available at: <https://bit.ly/460pg6y>.

<sup>14</sup> 360 Degrees. *Under the motto "We have a duty", MOC-OA is going to a rally today against the draft laws on gender equality and birth records.* Available at: <https://bit.ly/3t4mlyg>.

The campaigns and statements of anti-gender actors were disseminated and amplified by the media without adequate critical analysis of their detrimental impact on human rights. Furthermore, these media outlets failed to categorise such content as hate speech, violating both the Code of Journalists and existing media legislation.

The anti-gender groups' efforts have led to the implementation of regressive policies in various municipalities while obstructing the adoption of recommended legislation at the national level. In its 2018 concluding observations, CEDAW emphasised the necessity of enacting a gender equality law and establishing an effective gender machinery for its enforcement.<sup>15</sup> In June 2023, the Mayor of Strumica,<sup>16</sup> a prominent advocate of anti-gender causes, publicly announced his veto and suspension of collaboration with CSOs after the failed attempt to amend the municipal program by replacing "gender equality" with "equal opportunities between men and women." It is concerning that this Municipality has been supported by UN Women and is considered by a "gender champion" in their programs.

Alarming developments occurred in July 2023, when other Municipal Councils (more than 12) altered their programs, substituting "gender equality" with "equal opportunities between men and women" in their titles and related articles, including gender-responsive budgeting. These changes encompass substituting the term "gender" with "sex," replacing "gender equality" with "equality of sexes" or "equal opportunities for women and men," and introducing a definition of men and a women. The definition stipulates that: a woman is an individual born with female biological sex, and a man is an individual born with male biological sex, irrespective of internal feelings or self-determination. It is worrisome that these initiatives, which significantly undermine decades of work advancing gender equality, remain unaddressed by the State. These harmful practices foster a hostile public discourse against transgender and gender non-conforming individuals.

Research studies in the country paint a concerning picture of the level of acceptance and tolerance towards LGBTI people. One report indicated that 81% of respondents expressed intolerance to have an LGBTI person as their neighbour.<sup>17</sup> Moreover, data from the European Social Survey revealed that 61% of respondents (highest in Europe) admitted they would feel ashamed if a close family member were identified as a gay man or a lesbian. Additionally, only 24% (lowest in Europe) of those surveyed agreed that gay men and lesbians should have the freedom to live their lives as they wish.<sup>18</sup>

Therefore, we ask:

1. Call for full implementation of gender equality commitment as part of the EU Accession Process, including actions to tackle gender bias and gender stereotypes as counter-strategies to the rising anti-gender narratives;

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<sup>15</sup> United Nations Convention on the Elimination of All Forms of Discrimination against Women. *Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*. CEDAW/C/MKD/CO/6. Available at: <https://bit.ly/3wA4Au6>.

<sup>16</sup> Gender Platform. *The function of a Mayor is not to make divisions in the civil society between "obedient" and "disobedient" organisations, but to work for the good of all citizens*. Available at: <https://bit.ly/3t7BIB2>.

<sup>17</sup> Macedonian Centre for International Cooperation. *Tolerance and values among citizens*. Available at: <https://bit.ly/466ToFT>.

<sup>18</sup> European Social Survey. *Ideological attitudes and attitudes towards climate change*. Available at: <https://bit.ly/3EQyDT5>.



2. Call for creating an enabling environment for civil society, including LGBTIQ CSOs, women CSOs and women and LGBTIQ human rights defenders by tackling and processing cases of misinformation and hate speech and ensuring protection to activists/CSO facing smear campaigns.
3. The State to develop and implement comprehensive awareness campaigns and educational programs in alignment with international human rights principles, to actively promote an inclusive and respectful public discourse as well as understanding and respect for gender diversity and equality.
4. The State to ensure the protection of freedom of expression and diverse voices, in line with international standards, by condemning any threats, violence, or discrimination against individuals or groups advocating for gender equality and LGBTQ+ rights.
5. Urgently adopt the Gender Equality Law in accordance with the UN and EU standards, allocate adequate funds for its implementation, particularly for measures promoting gender equality at national and local levels.
6. The State to enhance oversight and accountability mechanisms for religious institutions to ensure their public statements and actions comply with international norms promoting gender equality and non-discrimination, the Istanbul Convention<sup>19</sup> and the Law on Prevention and Protection of Violence for Women, and take appropriate measures when such standards are violated.
7. The State should encourage municipalities to adopt and implement programs that explicitly promote gender equality and inclusion, in line with international obligations, by offering technical support and guidance to local governments to ensure policies and practices align with human rights standards.
8. The State should ensure the effective implementation of mechanisms to combat hate speech and disinformation, strengthen the capacities of public prosecutors, and regulate the online space to protect human rights and prevent hate speech and disinformation.

### **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 2023.

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<sup>19</sup> Council of Europe. *Convention on preventing and combating violence against women and domestic violence*. Available at: <https://bit.ly/3t0hzXT>.

## 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 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.

In May 2023, the Council formed to monitor the implementation of Strategy of Prevention and Protection against Discrimination and its related Action Plan agreed at its first session that it would consider the preconditions for the drafting of legal gender recognition legislation.

In February, Geten sent a freedom of information request to the Ministry of Health, inquiring about care provision and the Ministry's plans to implement ICD-11. The Ministry answered that it would, for now, continue using ICD-10. Kolektiv Talas TIRV together with the Ombudsperson initiated intersectoral discussions on the topic of depathologizing transgender identities at which it was agreed to initiate the official implementation of ICD-11. No further progress has been reported.

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 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 2023 and largely with impunity. On the occasion of IDAHOBIT, Serbia's Ombudsperson Zoran Pašalić called for sanctions against anti-LGBTI hate crimes and for providing free legal aid to LGBT victims of discrimination and violence.

Da se zna! shared that close to 90% of victims, who reported an anti-LGBT attack to the authorities, do not have any information about the steps the police took. Between August and March 2023, Da se zna! documented 94 hate crimes.

It is of great importance and worry that trans women are at particular risk of violence. Noa Milivojev, an 18-year-old trans woman, was murdered in June. Her body was found three weeks after she disappeared. A vigil was held in her memory, but the memorial site was later vandalised and trans flags were violently removed from it. A protest was organised as part of "Serbia against violence" protest, and an opposition leader holding a trans flag was verbally attacked by two men, who were promptly removed by organisers. CSOs filed a criminal complaint, but the police have not taken action. 29 civil society organisations demanded the harshest sentence - the suspect faces aggravated murder charges. Civil society reiterated its urgent call for effective police protection and sanctions against perpetrators. In its annual hate crime report, Da se zna! documented the highest number of anti-LGBT incidents since 2017.. For example, Belgrade Pride Info Centre was attacked and vandalised in May and August. This brings the total number of attacks on the Centre to 19 over the past few years. Police have only sanctioned two of the attacks, 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 July 2023, an [incident](#) happened in the city of Krusevac. A couple of LGBTI activists were invited by the local organisation 'Gnezdo' to participate in a panel discussion, an exhibition, and a performance. The aim of the event was to address the rise of homophobia in the city, as evidenced by the proliferation of hate speech graffiti. They received a small grant to paint over the graffiti and organise the event. Kruševac, being a relatively small city, quickly learned about the planned LGBTI event. On the day of the event, approximately 50 young men gathered in front of the venue, shouting hateful comments. The police arrived about an hour

later and dispersed the crowd, although some individuals returned afterward. Unfortunately, the event was, due to fear of the attendees, poorly organised. Only two people, who happened to be friends of the 'Gnezdo' owners, were present in the audience.

#### 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. The latest version of the draft law on same-sex unions, was adjusted to match the Council of Europe's opinion on same-sex unions. However, the suggestion from the Ministry to remove the option for partners to adopt each other's last name has not been officially included in the final draft. This suggestion remains more of an informal recommendation from the Ministry rather than a formal part of the draft law.

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).

#### **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.

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## 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. A report on 'The Situation of LGBTI+ People After the Earthquake' [found](#) widespread discrimination and need for support, even months after the disaster.

#### Freedom of assembly

Pride season 2023 in Türkiye began shortly after the legislative and presidential election, and spanned a number of weeks. A record number of Pride events were planned, despite blanket bans and the threat of police violence and detention of LGBTI+ human rights defenders. Police intervened in at least 10 LGBTI+ rights related events and [pride](#) marches, [detaining](#) at least 224 people, including lawyers, journalists, human rights defenders and foreign nationals. An opposition MP was also targeted and threatened with detention. At least 5 foreign nationals, [including](#) an Iranian LGBTI activist with international protection status, were held in removal centres facing deportation for up to one month. The excessive use of force deployed during the police interventions violates the right to peaceful assembly, which is protected under domestic law and international laws, including the European Convention on Human Rights, to which Türkiye is a party.

2023 was the ninth consecutive year [since 2015](#) that LGBTI+ people have been subjected to blanket bans and restrictions on Pride events.

In addition to bans on Pride events, 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 ban and prevent the marches. 28 people including LGBTI+ activists were [detained in İstanbul](#) and released on the same night and the police [used](#) excessive force against the participants.

Over 200 people were [arrested](#) in İstanbul 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

The case against Ankara Pride participants [continued](#). Court proceedings against Tarlabası Community Centre, a women’s and children’s rights organisation that planned an LGBTI+ event, [continued](#) this year.

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*”.

The amendments to the constitution were dropped due to the earthquake, just before the national elections. The government announced plans to retable the amendments or even completely overhaul the Constitution after the local elections.

The Twelfth Development Plan for 2024-2028 [targets](#) LGBTI+ people as “harmful trends that negatively affect the family structure, uniformisation and desexualisation trends”, while the section of the plan entitled “Qualified People, Strong Families, Healthy Society” states that “efforts will be made to maintain healthy generations and reduce the effects of bad habits, addictions and ‘harmful trends’ that negatively affect the family structure, taking into account our national and spiritual values”. However, the United Nations Sustainable Development Goals include the need to develop policies that do not exclude LGBTI+ people, such as ensuring gender equality and eliminating inequality.

### 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). Trans women in particular have been subject to hate crimes at high levels, and there have been a number of murders of trans women since June 2023 (see ILGA-Europe Annual Review at the end of this country chapter). LGBTI+ people are a target of hate speech and disinformation from political and religious leaders, including President Erdogan.

During 2023, [politicians](#) and religious leaders continued spreading anti-LGBTI hate. President Erdogan was again one of the most vocal speakers against LGBTI people (see [here](#), [here](#), [here](#), [here](#)), and particularly during the campaign leading up to the elections in May.

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.

After the elections, the term “LGBT terror” was frequently used in the media ([here](#), [here](#), [here](#), [here](#)) close to the government. [Yeni Akit Newspaper](#), known for its anti-LGBTI+ views, frequently targeted bar associations working on LGBTI+ rights.

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, but the Prosecutor [dropped](#) the charges saying the spots were to “protect the institution of family”. Ten activists, who protested against the so-called ‘PSA’ were [detained](#) in Izmir. SPoD [reported](#) that applications to its LGBTI+ Helpline on SOGI-based discrimination and violence increased by 42% in the first month following the first anti-LGBT+ demonstration and by 240% compared to the same period of the previous year.

In June, 154 journalists and press workers [published](#) a joint statement ‘We do not want to write any more news about violence and prohibition against LGBTI+ people!’.

#### 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. Party leaders and politicians have pledged to [shut down](#) LGBTI+ organisations and gatherings.

#### Freedom of expression

LGBTI+ content is still being censored in media, television and books.

The Radio and Television Supreme Council (RTÜK) fined several streaming platforms this year because of LGBT+ characters (see [here](#) and [here](#)).

Kaos GL's commercial film, which had the theme "Hand in hand against hate" and was shot and broadcasted on Marmaray, was taken off the air after the actors and the production company received death threats.

The rainbow flag is de facto banned without any legal justification. The police systematically threaten to arrest people who try to unfurl the rainbow flag.

In July 2023 disciplinary proceedings were [initiated](#) against two students who unfurled the rainbow flag they had brought in their bags during the ceremony at the stadium. The documents related to the investigation are not based on any article of the disciplinary code.

In September 2023 private security guards [intervened](#) to remove a rainbow flag at the stand of the At Boğaziçi University Feminist Club.

In September 2023 two people carrying the rainbow flag were [detained](#) during a press statement outside the courthouse before the trial of the Platform to Stop Femicide Platform Association.

The Izmir Bar Association organised a press statement in front of its headquarters in Alsancak for the 20 November Day of Remembrance for Trans Victims of Hate Crimes. However, the police claimed that the rainbow flag was "forbidden" and wanted to [take it away](#). The police said: 'This flag is banned, I cannot allow this flag. You have to consider the sensitivity of society. This is a piece of cloth, you cannot set a bad example for society'. Two lawyers were [beaten](#) by the police during the brawl.

### **Feedback on the European Commission's 2023 Enlargement Report**

In its country report on Turkey, the European Commission highlighted anti-LGBTIQ hate speech as a serious issue and noted its increase since the February earthquake.

### **Recommendations to the EU**

- Be prepared to provide extensive protection for LGBTIQ human rights defenders, in particular during the election campaign, after the elections, and during this year's Pride season.
  - Continue to support LGBTIQ civil society financially
  - Provide safe spaces for LGBTIQ people to gather
  - Participate in trial observations
  - Communicate strongly to the Turkish authorities that the police must provide protection to LGBTIQ people against violence, in particular at planned events in the public space such as Prides.
- Participate in election observation, and track the instrumentalisation of LGBTIQ people in this process (i.e. smear campaigns and hate speech by leaders and politicians);
- Stop supporting NGOs that produce hatred against LGBTIQ 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-LGBTIQ 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 LGBTIQ people;
- Conduct high level meetings with state authorities regarding the pressure on LGBTIQ associations and implement new practices to transform attitudes towards LGBTIQ people;
- Designate Turkey as an unsafe country for LGBTIQ refugees;
- More support, both financial and otherwise, could be provided to build the capacity of Turkish LGBTIQ 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 2023.

## 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.

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 2023, 44 civil society organisations launched a [petition](#) calling on the government to adopt Draft law 9103.

On 1 June 2023 in the case of *Maymulakhin and Markiv v. Ukraine*<sup>20</sup> the ECtHR found violation of Article 14 ECHR in conjunction with Article 8, for Ukraine’s lack of legal recognition for same-sex couples.

On 18 October 2023, the Ministry of Defence and the Ministry of Justice formally approved their support for draft law 9103.

<sup>20</sup> <https://hudoc.echr.coe.int/fre#%7B%22tabview%22:%7B%22document%22%7D%2C%22itemid%22:%7B%22001-224984%22%7D%7D>

- Continue the drafting of a new draft law to protect people from violence based on grounds of race, skin colour, political, religious and other beliefs, gender, sexual orientation, gender identity, nationality, ethnic, social or foreign origin, age, state of health, disability, family and property status, family rights and responsibilities, place of residence, language, occupation or on other 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, among other protected grounds. 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.

Hate crime legislation which includes aggravated grounds addressing the particular targeting of a group or individual based on bias or prejudice is a key requirement for building a legal framework which tackles discrimination and upholds fundamental rights. As a result, it is an important milestone for a prospective EU Member State to achieve in the process of aligning its legislation with EU acquis. It would also bring Ukraine in line with the case law of the ECtHR, which has long demonstrated that Council of Europe Member States should adopt SOGI-inclusive hate crime laws in order to comply with the European Convention on Human Rights.<sup>21</sup>

Therefore, the EU institutions and European governments should call on the Ukrainian government to include sexual orientation and gender identity as protected grounds and to support voting in the Parliament of the Draft law 5488."

- 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.

### **Feedback on the European Commission's 2023 Enlargement Report**

In the most recent EU Enlargement Progress Report of November 2023, the Commission highlighted the importance of improving the rights of LGBTI people in Ukraine, noting that the majority of the Ukrainian public support registered partnership for same-sex couples, and acknowledges the draft law 9103 currently in Parliament while highlighting the European Court of Human Rights (ECtHR) judgement of 1 June 2023 in the case of *Maymulakhin and Markiv v. Ukraine*.

The European Commission, in its 2023 Enlargement Progress Report, specifically highlighted the recommendation of the European Commission against Racism and Intolerance (ECRI) to Ukraine to adopt a hate crime law which includes the grounds of sexual orientation and gender identity.

We ask the EC to use the wording same-sex partnership instead of same-sex marriage as this is the draft legislation in the Parliament at the moment.

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<sup>21</sup> See, for example, ECtHR cases related to sexual orientation which resulted in the requirement to adopt hate crime legislation including sexual orientation as a protected ground: [https://www.echr.coe.int/documents/d/echr/fs\\_sexual\\_orientation\\_eng](https://www.echr.coe.int/documents/d/echr/fs_sexual_orientation_eng)

### **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 earmarks on 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**

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 Ukraine chapter [here](#), which covers the period of January-December 2023.