



Council of Europe

The COVID-19 pandemic dramatically impacted the work of the Council of Europe in 2020; the Parliamentary Assembly of the Council of Europe (PACE) cancelled three of its four-part sessions, replacing them with meetings of the Standing Committee, which meant in practice that debates, written declarations, and questions from the floor during session were dramatically curtailed. Furthermore, the European Commission against Racism and Intolerance (ECRI) rescheduled many of its country visits and delayed planned reports, as did the General Rapporteur on the rights of LGBTI people.

The Council of Europe created a new Steering Committee - the [Steering Committee on Anti-Discrimination, Diversity and Inclusion \(CDADI\)](#), in 2020, which includes in its mandate further formalisation and integration of SOGI issues into the non-discrimination framework. Additionally, the Secretariat of the [European Focal Points Network](#) was relocated to be formally hosted within the SOGI Unit, adding weight to this long-standing intergovernmental space and opening a path to formalised intergovernmental dialogue on SOGIESC issues.

ASYLUM

In a judgement delivered on 17 November in the case of *B and C v. Switzerland*, the European Court of Human Rights (ECtHR) found that State's failure to assess the risks of ill-treatment for a gay person in The Gambia, and the availability of State protection against ill-treatment emanating from non-state actors, give rise to violation of Article 3. Although the laws criminalising same-sex relations may not be imposed, they are however an indication that State protection of LGBTI individuals would not be available putting the person.

BIAS-MOTIVATED SPEECH

On 14 January, the European Court of Human Rights [found](#) in the case of *Beizaras and Levickas v. Lithuania* that Lithuania's failure to investigate online hateful comments against a gay couple to have violated their rights to private and family life, as well as being discriminatory on the ground of sexual orientation.

On 15 May, the Commissioner for Human Rights of the Council of Europe published a [statement](#) for IDAHOT+ entitled Hate mongering against LGBTI people has no place in today's Europe.

On 10 June, in the case of *Liliendahl v. Iceland*, the European Court Of Human Rights [found](#) that Iceland acted in compliance with the Convention by convicting and fining the author of homophobic comments. The Court found that such prejudicial and intolerant comments, which promoted intolerance and detestation of gay persons, fell within the definition of hate-speech under Article 10 of the Convention, and did not enjoy protection as a form of freedom of expression.

The General Rapporteur on the rights of LGBTI people for the Assembly issued a [statement](#) on 25 June entitled "Poland: 'stop the rhetoric of hate against LGBTI people' says PACE General Rapporteur". Additionally, on 26 June a [motion for a resolution](#) on Combatting rising hate against LGBTI people in Europe was tabled. It was approved by the Bureau, and the General Rapporteur on the rights of the LGBTI people was assigned as rapporteur. A hearing was held on the resolution on the Committee on Equality and Non-discrimination on 24 November, and a country visit to Poland was approved by the Committee for fact-finding.

BODILY INTEGRITY

OII Europe, the Finnish Permanent Representative to the Council of Europe, and the SOGI Unit hosted a [webinar](#) on 30 June, to launch a [report commissioned by the Finnish government](#) and raise awareness about the situation of intersex people in Europe. Additionally, the SOGI Unit hosted a [webinar](#) on 20 November on intersex issues in Serbia.

ECRI included intersex issues in its investigative and released country reports with intersex-specific content on [Albania](#), [Austria](#) (with recommendation), [Czechia](#) (with recommendation), [Germany](#) (with recommendation), [Slovakia](#), and [Switzerland](#) (with recommendation).

The General Rapporteur on LGBTI published a [statement](#) calling for an end to intersex genital mutilation to mark the occasion of Intersex Awareness Day on 26 October.



EQUALITY AND NON-DISCRIMINATION

On 16 September, the Committee of Ministers took note of the report prepared by the SOGI Unit on the review of the Committee of Ministers Recommendation (2010)5, which was previously adopted by the Steering Committee on Human Rights (CDDH) in November 2019, on measures to combat discrimination on grounds of sexual orientation or gender identity.

A report, resolution, and recommendation were adopted on Preventing discrimination caused by the use of artificial intelligence, which took note of the ways in which LGBTI people may be vulnerable in the context of AI.

The draft resolution on Supporting people with autism and their families, published in November, took note of the joint civil society submission highlighting the unique challenges for LGBTI people with autism, including social isolation, limitations in access to medical care, and ableism in LGBTI communities.

FAMILY

The Commissioner for Human Rights of the Council of Europe submitted a third party intervention to the European Court of Human Rights concerning the case of Florin Buhuceanu and Victor Ciobotaru v. Romania and 12 other cases, noting with concern the lack of access to partnership rights for same-sex couples.

FREEDOM OF ASSEMBLY

In January 2020, the 22 members of the Assembly signed a written declaration insisting that *The Turkish authorities must drop all charges against LGBTI activists who participated in Pride*. Similarly, following her country visit to Turkey, the Commissioner for Human Rights of the Council of Europe issued a report on 19 February stating that *Turkish authorities must restore judicial independence and stop targeting and silencing human rights defenders*.

On 13 October, the European Court of Human Rights issued a judgment in Sozayev and Others v. Russia, establishing that arrests of LGBTI activists protesting the so-called gay propaganda law had violated Articles 5, 6, and 11 of the Convention. On 1 December, the Court ruled in the Berkman v. Russia case that Russia failed to ensure the peaceful conduct of a public meeting in St. Petersburg on Coming Out Day in 2013 and that activist Yelena Berkman's arrest and detention was arbitrary, unlawful, and discriminatory.

FREEDOM OF RELIGION

During the January 2020 Part Session of the Assembly, a resolution on *The protection of freedom of religion or belief in the workplace* was successfully amended, with collective effort from LGBTI and SRHR civil society organisations, to ensure that freedom of religion was not manipulated to allow for discrimination against LGBTI people or those seeking access to abortion or contraception.

FREEDOM FROM TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT

On 8 October, the European Court of Human Rights in the case of Aghdgomelashvili and Japaridze v. Georgia found that the 2009 humiliating police raid in the office of an LGBT NGO based in Tbilisi followed by inappropriate investigations by the domestic authorities constituted a violation of Article 3 (prohibition inhuman and degrading treatment), taken in conjunction with Article 14 of the Convention.

HEALTH

In the context of the COVID-19 pandemic, the General Rapporteur on the rights of LGBTI people issued a statement on 15 May, around the commemoration of IDAHOT+, entitled *COVID-19: No time for silence at critical moment for LGBTI people*. On the same day, the Commissioner for Human rights of the Council of Europe signed a joint statement with UN and IACHR mandates entitled *COVID-19: The suffering and resilience of LGBT persons must be visible and inform the actions of States*. The Assembly adopted an LGBTI-inclusive report, Upholding human rights in times of crisis and pandemics: gender, equality and non-discrimination, on 13 October. ECRI released a brief statement noting the impacts of the pandemic on LGBTI people.



HUMAN RIGHTS DEFENDERS

In October, the Standing Committee adopted a [report and resolution](#) on *The principles and guarantees of advocates*, which acknowledged the persecution of lawyers who represent LGBTI clients or work on LGBTI issues and called for this to cease.

LEGAL GENDER RECOGNITION

On 22 May, in response to the tabling of the omnibus bill in Hungary which, once adopted, made legal gender recognition impossible in the country, the General Rapporteur on the rights of LGBTI people issued a [statement](#) entitled *“Depriving trans and intersex people of legal gender recognition in Hungary is intolerable”*, says General Rapporteur.

On 9 July, the European Court of Human Rights [issued a judgement](#) in the case of Y.T. v Bulgaria, finding violation of Article 8 (right to private and family life). Domestic authorities’ refusal to grant legal recognition to Y.T.’s gender reassignment, without giving relevant and sufficient reasons, and the rigidity in the domestic courts’ reasoning, which lasted for an unreasonable and continuous period, resulted in applicant’s feelings of vulnerability, humiliation and anxiety.

On 16 July, the European Court of Human Rights [established](#) Hungary’s positive obligation under Article 8 to secure the right to respect for private life to provide a procedure allowing asylum seekers to have their gender identity legally recognised.

ECRI recommended [Czechia](#) and [Slovakia](#) to remove the mandatory sterilisation requirement of LGR.

SEXUAL AND REPRODUCTIVE RIGHTS

On 26 June, the Assembly adopted an LGBTI-inclusive [resolution](#) on access to contraception in the Council of Europe region.

On 21 July the Commissioner for Human Rights of the Council of Europe published an LGBTI-inclusive [human rights comment](#) calling for comprehensive sex education in schools.

In a speech on 12 November, to commemorate European Day Against Sexual Exploitation and Sexual Abuse of Children, the Commissioner for Human Rights pointed out that LGBTI people, among others, were wrongfully scapegoated in discussions of prevention of this violence.