

Report on the review of the implementation of Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity



STEERING COMMITTEE ON ANTI-DISCRIMINATION, DIVERSITY AND INCLUSION (CDADI)

**Committee of Experts on Sexual Orientation,
Gender Identity and Expression, and
Sex Characteristics (ADI-SOGIESC)**

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Abbreviations and Acronyms

the Court	European Court of Human Rights
the Convention	European Convention on Human Rights
CDDH	Steering Committee for Human Rights
CDADI	Steering Committee on Anti-discrimination, Diversity and Inclusion
ADI-SOGIESC	Committee of Experts on Sexual Orientation, Gender Identity and Expression, and Sex Characteristics
ECRI	European Commission Against Racism and Intolerance
PACE	Parliamentary Assembly of the Council of Europe
SOGIESC	Sexual orientation, gender identity and expression and sex characteristics
LGBTI	Lesbian, gay, bisexual, transgender and intersex
NHRI	National human rights institutions
EU	European Union
CJEU	Court of Justice of the European Union
FRA	Fundamental Rights Agency of the European Union
OSCE	Organisation for Security and Co-operation in Europe
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
WHO	World Health Organisation

Executive Summary

1. Fifteen years after the adoption of Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity, progress on equality and the protection of the human rights of LGBTI persons in Europe has moved in two simultaneous directions, which themselves reflect an increasing polarisation: while significant progress has been made in various categories of rights in many member states, in some cases progress has stalled and some gains have even been called into question.
2. Since the 2019 Review of the implementation of Recommendation (2010)5, the European Court of Human Rights has continued to be a key driver in strengthening protection of LGBTI persons' human rights across the policy areas addressed in the Recommendation. The Court has for instance clarified through its jurisprudence the member States' positive obligations regarding hate speech and violence against LGBTI persons,¹ legal gender recognition,² recognition of same-sex partnerships³ and the recognition of sex characteristics as a ground of discrimination.⁴
3. Together with this developing legal framework, country monitoring reported by ECRI,⁵ PACE Resolutions,⁶ statements and issue papers from the Commissioner for Human Rights,⁷ as well as conclusions of the European Committee of Social Rights have underlined the need to maintain reform momentum, in the face of an increasingly challenging political context and divided social landscape.
4. Nevertheless, many member States have continued their efforts to implement the Recommendation and some have taken positive steps to go beyond such standards. For example some member States have advanced protections for intersex persons, introduced penalties to punish conversion practices, enabled legal gender recognition based on self-determination and tailored anti-discrimination protections through an intersectional lens.
5. At the same time, the so-called "anti-gender movement", which the 2019 Review noted as an emerging trend, has increased its presence in the region and actively opposed the protection of human rights for LGBTI persons through the actions of various anti-rights and anti-democratic actors. Its impact has been manifested in increased homophobic and transphobic hate online and offline, and harmful political rhetoric, resulting in some instances in legislative initiatives and constitutional court decisions which rollback equality protections of LGBTI persons.
6. With persistently higher rates of hate crime and hate speech against LGBTI persons,⁸ many member States have sought to address the phenomenon through improved legal and policy frameworks, especially targeting online hate. The need to step up action in this area has also been recognised by the Council of Europe through its adoption of Recommendations CM/Rec(2022)16 on combating hate speech⁹ and CM/

1. *Oganezova v. Armenia*, Applications nos. 71367/12 and 72961/12, 15 May 2022.

2. For instance, in relation to the necessity of a clear and predictable legal gender recognition procedure: *X and Y v. Romania*, Application No. 2145/16, 19 January 2021.

3. *Fedotova and Others v. Russia*, Application Nos. 40792/10, 30538/14 and 43439/14, 17 January 2023.

4. *Semenya v. Switzerland*, Application no. 10934/21, 11 July 2023.

5. As well as country reports in ECRI's V and VI monitoring rounds, see General Policy Recommendation No.17 on combating intolerance and discrimination against LGBTI persons - <https://hudoc.ecri.coe.int/?i=REC-17-2023-30-ENG>.

6. See PACE Resolutions 2576 (2024) Preventing and combating violence and discrimination against lesbian, bisexual and queer women in Europe - <https://pace.coe.int/en/files/33902/html>, 2543 (2024) Freedom of expression and assembly of LGBTI people in Europe - <https://pace.coe.int/en/files/33506/html>, 2418 (2022) Alleged violations of the rights of LGBTI people in the Southern Caucasus - <https://pace.coe.int/en/files/29711/html>.

7. Human rights and gender identity and expression (2024) - <https://rm.coe.int/issue-paper-on-human-rights-and-gender-identity-and-expression-by-dunj/1680aed541>, Human Rights Comment - Nothing to cure: putting an end to so-called "conversion therapies" for LGBTI people - <https://www.coe.int/en/web/commissioner/-/nothing-to-cure-putting-an-end-to-so-called-conversion-therapies-for-lgbti-people>, Human Rights Comment - Pride vs. indignity: political manipulation of homophobia and transphobia in Europe - <https://www.coe.int/en/web/commissioner/-/pride-vs-indignity-political-manipulation-of-homophobia-and-transphobia-in-europe>.

8. *Second Thematic Report: Hate Crimes and other Hate-motivated Incidents based on Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics in Europe* (2023).

9. Recommendation CM/Rec(2022)16 of the Committee of Ministers to member States on combating hate speech - <https://search.coe.int/cm?i=0900001680a67955>.

Rec(2024)4 on combating hate crime.¹⁰ In a notable positive development, Ireland expressly included all grounds of sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC) in its 2024 Criminal Justice (Hate Offences) Act, and encapsulated the wider concept of a hatred element, in line with Council of Europe standards.

7. Most member States actively support an active and vibrant LGBTI civil society. However, in some instances, member States have proposed or enacted legislation that can negatively impact the work of LGBTI civil society organisations in their provision of services and ability to advocate on behalf of LGBTI persons, often based on their reliance on foreign funding or public morality clauses.

8. Moreover, disinformation that portrays awareness raising on SOGIESC issues as a threat to minors has similarly led to restrictions of the sharing of LGBTI related age-appropriate educational materials, particularly with children and young people in schools. Whereas such measures already existed in a few member States prior to this reporting cycle, three have adopted such bans since the 2019 Review and several member States have considered such bans. These measures have been deemed to potentially constitute violations of the European Convention on Human Rights, notably by the Venice Commission.

9. Despite the positive trend of a rising number of LGBTI Pride marches, including outside capital cities, the increasingly hostile context around these events, often due to harmful political rhetoric and counter demonstrations, has challenged the ability to organise such events. Opposition to organising Pride Marches has led to both legislative bans and de facto bans in some States.

10. Since the 2019 Review, four member States (Finland, Germany, Spain and Switzerland) have introduced legal gender recognition procedures which are quick, transparent, accessible and importantly based on self-determination, bringing the total number of States with a similar level of procedure to 12. This move away from a pathology-based approach, that reflects the amendments to the ICD-11 adopted in 2019 by the World Health Organisation (WHO), enables transgender persons to have their gender identity recognised in a dignified and respectful manner. By contrast, in some member States, any form of legal gender recognition has been rendered impossible due to the lack of quick, transparent and accessible procedures, constitutional court rulings or the enactment of legislation which defines gender only as the biological sex assigned at birth.

11. Repeated rulings by the Court¹¹ that recognition of same-sex partnerships is a requirement for member States to not violate its provisions on private and family life has sparked legislative action in Ukraine, and which should also be implemented in Bulgaria, Poland and Romania. Going beyond the Recommendation's standards and aligning with recent jurisprudence of the Court, Andorra, Estonia, Greece, Slovenia and Switzerland have introduced marriage equality for same-sex couples since the 2019 Review. This progress has not been matched to the same extent as regards parental rights, where recognition of rainbow families across Europe remains a significant challenge, and in some member States has become more difficult or impossible. This deepening polarisation between member States poses significant obstacles in cross-border situations.

12. The impact of COVID-19 on the area of employment, particularly on vulnerable groups such as LGBTI persons who are more likely to be in temporary or unstable work situations, demonstrated the need for enhanced action. There is a continued trend towards improving discrimination protections for persons based on their sexual orientation, and some member States, such as Albania, Belgium, Iceland, Ireland, Malta and Spain have factored employment policy in their LGBTI national strategies or action plans. Fewer member States have addressed discriminatory practices and access to employment for transgender persons, who are more often in precarious employment situations, and even less so as regards intersex persons as well as particularly vulnerable LGBTI groups, such as migrants, asylum seekers and refugees.

13. The right of children to a safe and inclusive learning environment has been addressed with concerted action in only eight member States. The introduction of legislation impeding inclusive and non-discriminatory curricula through restrictions on LGBTI related educational materials contributes to the stigmatisation of LGBTI persons in society and exposes LGBTI students to violence and harassment. To address the needs

10. Recommendation CM/Rec(2024)4 of the Committee of Ministers to member States on combating hate crime - <https://search.coe.int/cm?i=0900001680af9736>.

11. For example: *Fedotova and Others v. Russia*, Application Nos. 40792/10, 30538/14 and 43439/14, 17 January 2023, *Buhuceanu and Others v. Romania*, Applications nos. 20081/19 and 20 others, 23 May 2023, *Maymulakhin and Markiv v. Ukraine*, Application no. 75135/14, 1 June 2023, *Koilova and Babulkova v. Bulgaria*, Application No. 40209/20, 5 September 2023 and *Przybylska and Others v. Poland*, Applications nos. 11454/17 and 9 others, 12 December 2023.

of transgender students at the national level with regard to recognition of self-determination in gender and first name choice, access to facilities and dress codes, Malta and Portugal have launched particularly welcome initiatives that other Member States should draw on to promote the educational attainment and well-being of all students.

14. Progress in the number of member States with nationwide non-discrimination provisions in health covering SOGI grounds has stalled since the 2019 Review and the majority of member States have not introduced initiatives to address the health needs of LGBTI persons in their national health plans. Examples of such positive nationwide initiatives regarding sexual and reproductive health and rights are present in Austria, Malta and Switzerland and the mental health of LGBTI persons is considered through a focus on this group in suicide prevention plans in Ireland, Luxembourg, the Netherlands, Sweden and the United Kingdom. Going beyond the requirements of the Recommendation, six member States, three more than in the 2019 Review, have banned non-consensual medical interventions on intersex children and eight States have taken steps to criminalise conversion practices.¹²

15. Homelessness, which has been exacerbated by economic crises, has particularly affected the most vulnerable members of the LGBTI community, in particular transgender persons.¹³ This housing crisis has been recognised and addressed in Albania, France, Italy, Greece, Malta, Poland and Portugal, through the provision of funding from public authorities or municipalities for emergency shelters for LGBTI persons, but more broad action is required across all member States. Anti-discrimination provisions covering sexual orientation and gender identity are mostly prevalent as regards the rental or purchase of property but are less so in terms of other aspects of housing, such as retaining ownership of land and other properties.

16. Sports remains a particularly challenging field for LGBTI persons. The instrumentalisation of anti-trans and anti-intersex sentiment regarding participation in sport has become increasingly prevalent in public discourse and social media around major sporting events. It is positive that recent international sporting events in France and Germany have featured awareness raising activities through including Pride Houses. Other member States, including Denmark, the Netherlands, Norway, Finland and Malta have organised policy events, demonstrating an increasing focus on LGBTI inclusivity in sport.

17. A large majority of member States recognise sexual orientation and gender identity as personal characteristics based on which a well-founded fear of persecution may be a valid ground for granting refugee status and asylum. Developments in EU law have had a positive impact on legislative frameworks in many member States. Sensitivity and understanding of LGBTI asylum applicants is supported through comprehensive and mandatory training of officers in 12 member States. However, only a few states ensure protection of transgender persons through accessibility to legal gender recognition and trans-specific healthcare. It remains a concern that, where safe-country lists are used, 18 member States maintain countries on these lists that criminalise or persecute individuals based on their real or perceived sexual orientation or gender identity and expression.

18. Equality bodies and NHRIs are clearly mandated to cover sexual orientation in 33 member States. This is considerably less so for gender identity, gender expression and sex characteristics, although a lack of clear mandate has not prevented equality bodies in some member States from undertaking work on LGBTI matters. The adequate funding of equality bodies and NHRIs remains an issue overall.

19. The understanding and approaches to multiple discrimination have continued to evolve, including as regards integrating an intersectional lens. Nineteen (19) member States recognise multiple discrimination in their national laws in some form, inclusive of sexual orientation and/or gender identity, while intersectional discrimination is explicitly recognised in five member States. The impact of a finding of multiple and/or intersectional discrimination on the penalty or remedy is not always clear. Nonetheless, where member States have not included multiple discrimination in their anti-discrimination frameworks, it has not been an obstacle to the development of policies using an intersectional perspective.

12. For further information see the *Third Thematic Report: Right to the Highest Attainable Standard of Health and Access to Healthcare for LGBTI People in Europe (2024)* CM(2024)133-final <https://search.coe.int/cm/eng?i=0900001680b1b910>.

13. See the Commission for Human Rights Issues paper CommHR(2024)17 Human rights and gender identity and expression (2024) <https://search.coe.int/archives?i=0900001680aed541>.

Background and Methodology

20. On 31 March 2010, the Committee of Ministers adopted CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, as well as its explanatory memorandum, as prepared by the Steering Committee for Human Rights (CDDH).

21. Following successive rulings by the Court which progressively expanded the interpretation of the Convention to ensure protections for lesbian, gay, bisexual, and trans persons, as well as a growing consensus among member States to establish human rights protections for these persons, the Recommendation set ground-breaking standards which provide a wide-ranging policy framework for member States to combat discrimination on the grounds of sexual orientation and gender identity.

22. After the adoption of the first report of the implementation of the recommendation (CDDH(2013)R77AddVI) by the CDDH at its 77th meeting (19-22 March 2013), the second report (CDDH(2019)R92Addendum4) was adopted at the 92nd meeting of the CDDH (26-29 November 2019). At the 1418th Budget Meeting (23-25 November 2021), the Committee of Ministers tasked CDADI to carry out a third comprehensive review of the implementation CM/Rec(2010)5 based on a new review methodology by the end of 2025. CDADI adopted this new methodology at its 6th meeting (29 November-1 December 2022) and confirmed the approach at its 10th meeting (18-20 November 2024), as detailed below.

23. In 2024, the Secretariat pre-filled questionnaires using responses from 2018 as the basis, supplemented by desk research. These were submitted to all member States to update, modify or complete. Thirty seven (37) out of 46 member States responded to the questionnaires, either by submitting additional information or confirming no further input was necessary, namely: Andorra, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, the Netherlands, North Macedonia, Norway, Portugal, Romania, San Marino, Serbia, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine and the United Kingdom. Significant legal developments after the completion of the questionnaire phase up until the end of April 2025 were also factored into the final report.

24. In order to provide an analysis of trends and developments across the entire Council of Europe region, information from pre-filled questionnaires for countries that did not respond was also considered in this report.

25. In view of the work being conducted in parallel to the development of this report as mandated by the Committee of Ministers, namely the Recommendation on the equality of rights of intersex persons as well as an upcoming study on the risks and impediments to the full access to rights resulting from discrimination and violence on grounds of gender expression, the questionnaire also covered gender expression and sex characteristics and these grounds are analysed in this report. The questionnaires specified that responding to aspects on sex characteristics was optional, and some member States chose not to provide information on this. Data provided related to measures on the grounds of sex characteristics only cover those member States that provided a response or did not explicitly opt out.

26. To ensure accuracy and factor in the lived experiences of LGBTI persons and as agreed in the revised methodology, additional resources were taken into consideration in this report.

27. Multiple regional reports were submitted by The European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe) in collaboration with the International Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Youth Organisation (IGLYO)¹⁴ as well as by the Organisation Intersex

14. <https://www.ilga-europe.org/report/a-complex-picture-of-progress/>.

International Europe and by the Eurocentralasian Lesbian* Community (EL*C).¹⁵ ILGA-Europe and IGLYO also coordinated national implementation reports by LGBTI organisations in Albania, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Georgia, Greece, Hungary, Ireland, Italy, Lithuania, Republic of Moldova, Montenegro, North Macedonia, Poland, Portugal, Romania, Serbia, the Slovak Republic, Slovenia, Spain, Türkiye, Ukraine. Similarly, Transgender Europe (TGEU) coordinated national implementation reports by LGBTI organisations for Armenia, Montenegro and Ukraine and also separately submitted a compiled report for these three member States¹⁶ based on an analysis of the national implementation reports. These alternative civil society reports were factored into the analysis of the questionnaires.

28. This report was further supplemented by desk research, and took into account Court jurisprudence, reporting by the Council of Europe, such as Thematic Reports of CM/Rec(2010)5 and reporting by other Council of Europe bodies such as the European Commission against Racism and Intolerance (ECRI), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) and the Commissioner for Human Rights.

15. <https://lesbiangenius.org/elc-report-advancing-lesbians-human-rights-in-europe/>.

16. https://tgeu.org/files/uploads/2025/09/tgeu_trans-rights-in-eec_2025.pdf

Implementation, Review and Remedies

CM/Rec(2010)5 Recommendation 1:

Examine existing legislative and other measures, keep them under review, and collect and analyse relevant data, in order to monitor and redress any direct or indirect discrimination on grounds of sexual orientation or gender identity;

29. The Court has played a fundamental role in developing these standards in its interpretation of the Convention in cases involving LGBTI applicants or people supporting LGBTI equality across areas such as protection against hate speech and violence,¹⁷ the right to freedom of expression,¹⁸ the right to freedom of peaceful assembly and association,¹⁹ the right to legal gender recognition without abusive requirements,²⁰ the right to legal recognition of same-sex partnerships,²¹ and others.

30. ECRI, in its 17th General Policy Recommendation,²² outlined a range of measures that member States should take, whether legislative, or through administrative policies and national strategies, or action plans to guarantee the safety and equal protection of LGBTI persons and ensure they can enjoy their rights and freedoms.

31. A majority of member States have taken steps to review and address existing legislative and other measures which could result directly or indirectly in discrimination on grounds of sexual orientation (36)²³ and gender identity (29).²⁴ Fifteen (15)²⁵ member States have done so as regards gender expression and 15²⁶ for sex characteristics.

32. The substantial difference between sexual orientation and gender identity on the one hand and gender expression and sex characteristics on the other may partially be due to their more recent consideration as self-standing grounds in national and international policy development, whereas in the past they have tended to be subsumed under gender identity and sex. State-sponsored policy and research initiatives, alongside and in collaboration with international organisations are needed to close this gap.

33. This review cycle examined the different actions that a member State might take to review and address legislative and other measures. The most frequent is through the adoption or continued implementation of national action plans, with 20²⁷ member States having done so, alongside 16²⁸ that have either or also adopted a comprehensive human rights strategy including LGBTI elements. Almost a third of member States have established cross-sectoral working groups to ensure the implementation of the standards of the Recommendation.

17. *Oganezova v. Armenia*, App. No. 71367/12, Application No. 72961/12, 15 May 2022.

18. *Bayev and Others v. Russia*, Application No. 67667/09, 20 June 2017.

19. *Berkman v. Russia*, Application no. 46712/15, 1 December 2020.

20. For example see: *A.P., Nicot and Garçon v. France*, Applications nos. 79885/12, 52471/13 and 52596/13, 6 April 2017.

21. *Fedotova and Others v. Russia*, Application Nos. 40792/10, 30538/14 and 43439/14, 17 January 2023.

22. General Policy Recommendation No.17 on combating intolerance and discrimination against LGBTI persons - <https://hudoc.ecri.coe.int/?i=REC-17-2023-30-ENG>.

23. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Latvia, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Ukraine, United Kingdom.

24. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Iceland, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Republic of Moldova, Serbia, Slovenia, Spain, Sweden, Ukraine.

25. Andorra, Austria, Belgium, Croatia, Denmark, Finland, Georgia, Iceland, Malta, Netherlands, Norway, Portugal, Slovenia, Spain, Sweden.

26. Albania, Austria, Belgium, Bosnia and Herzegovina, Denmark, Finland, Greece, Iceland, Malta, Montenegro, Netherlands, Portugal, Serbia, Slovenia, Spain.

27. Albania, Belgium, Bosnia and Herzegovina, Denmark, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Luxembourg, Malta, Montenegro, Netherlands, Norway, Portugal, Spain, Sweden, United Kingdom.

28. Belgium, Croatia, Denmark, France, Iceland, Ireland, Italy, Latvia, Luxembourg, Montenegro, Netherlands, North Macedonia, Portugal, Serbia, Spain, Sweden.

34. Many member States, including Albania, Belgium, Bosnia and Herzegovina, Denmark, France, Greece, Italy, Luxembourg, Malta, Spain and Sweden have enhanced the quality of their action plans and strategies by actively involving key stakeholders, including civil society, in their drafting process. Additionally, several member States, including Bosnia and Herzegovina, Denmark, Iceland, Ireland, Malta, Norway, Portugal and Sweden have indicated the ministries responsible for implementation, with some allocating budgets to better secure the implementation of their action plans. Portugal's inclusion of yearly indicators alongside each policy initiative is a positive example of factoring in monitoring.

35. Nonetheless, some member States have not followed through thoroughly with these policy initiatives, either due to a lack of prioritisation or political developments.²⁹

Iceland: The 2022-2025 LGBTI Action Plan contains specific actions across a range of policy areas, indicating a specified budget, timeframes and responsible Ministries. The Icelandic Government has a dedicated webpage which indicates progress across each of the listed actions.

Bosnia and Herzegovina: The 2021-2024 National Action Plan (which was recently extended to 2025) was developed in cooperation with representatives from a range of administrative bodies, included civil society and engaged with the Council of Europe. The Action Plan refers to both National and International standards and uses a range of resources published by Civil Society, the Ombudsperson as well as international reports from the World Bank and the EU.

Belgium: A Commission was established which gathered data from stakeholders through questionnaires and engaged with Civil Society Organisations across a wide range of fields as well as Equality Bodies ahead of adopting its 2023 Federal Law on Non-Discrimination.

Greece: The 2021-2025 National Strategy for LGBTQ+ Equality is based on the work of a committee consisting of academics, legal experts, members of civil society and representatives across a range of Government departments and welcomed inputs from LGBTI organisations and national and international human rights bodies. The success of the Strategy is attested by the number of adopted measures, which include: the ban on conversion therapies; legislative protections of the rights of intersex persons; the adoption of anti-discrimination provisions; and the introduction of marriage equality.

36. The Recommendation calls for member States to collect and analyse data to allow them to better establish evidence-based policies for combatting discrimination. As ECRI noted in its 17th General Policy Recommendation, the lack of systematically collected data in Europe impacts the ability of authorities to establish appropriate and evidence based anti-discrimination policies for LGBTI persons, with LBT women and intersex persons being particularly affected as well as those who experience intersectional discrimination.³⁰ ECRI recommended that the governments of member States establish a comprehensive, accurate and reliable system to collect relevant and disaggregated data regarding LGBTI people, taking into account an intersectional perspective whilst ensuring that appropriate protections and international standards are in place.

37. A majority of member States (36),³¹ an increase of seven from the 2019 review, have some form of measure that allows for a collection of disaggregated data on the ground of sexual orientation, 15³² of these partially, meaning the data is collected sporadically or not through a government implemented measure. The

29. See for example ECRI's Sixth report on the United Kingdom - <https://hudoc.ecri.coe.int/?i=GBR-CbC-VI-2024-30-ENG> Fourth report on Serbia - <https://hudoc.ecri.coe.int/?i=SRB-CbC-VI-2024-19-ENG>.

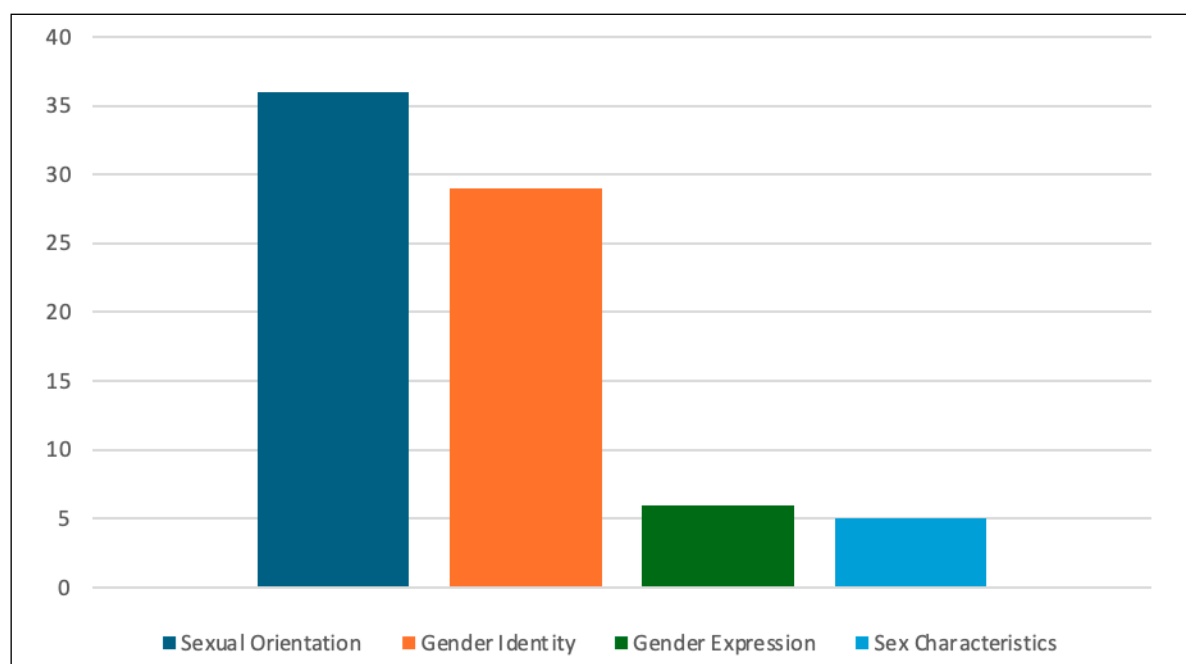
30. ECRI General Policy Recommendation No. 17 - <https://hudoc.ecri.coe.int/?i=REC-17-2023-30-ENG>.

31. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovak Republic, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

32. Albania, Andorra, Belgium, Czech Republic, Iceland, Ireland, Italy, Lithuania, Luxembourg, Portugal, Romania, Serbia, Slovak Republic, Switzerland, Ukraine.

number is less for gender identity, namely 29³³ with 13³⁴ of these partially, the same as in the 2019 Review. Six member States have measures for collecting disaggregated data on gender expression (Denmark, Finland, the Netherlands, Norway, Spain and Sweden) and five on sex characteristics (Denmark, Finland, the Netherlands, Norway and Spain).

Number of member States with measures permitting the collection of disaggregated data



38. Member States' approaches and capacity to collect data are often affected by wider policies around data collection and privacy, which in some cases can limit the ability for authorities to gather such information. Moreover, civil society organisations are often relied upon to collect information, which whilst producing vital data, can be limited due to capacity and do not have the impact of government-driven data collection efforts.

39. The understanding of the nature of discrimination on multiple grounds has continued to evolve since the publication of the Recommendation in 2010, including as regards intersectional discrimination.³⁵ Whilst progress has been made, only Austria, the Netherlands and Norway have measures which allow for an analysis of collected discrimination data on some or all of the SOGIESC grounds through an intersectional lens.

The Netherlands: The 2024 LGBTIQ+ Monitor provides a detailed overview of the lived experience of LGBTI persons in comparison to cisgender heterosexual persons. For the first time the Monitor also covered non-binary, asexual, intersex and queer persons, as well as including some intersectional aspects.

40. As regards the methodology of data collection, some of the broadest tools available to member States are through national surveys and/or censuses. These methods permit member States to gather a large amount of data on their population in a comprehensive manner. However, only nine³⁶ member States confirmed clear measures to collect data in this manner or have undertaken relevant national studies on sexual orientation, eight³⁷ on gender identity, four³⁸ on gender expression and four³⁹ on sex characteristics.

33. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Finland, France, Georgia, Germany, Iceland, Italy, Luxembourg, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Serbia, Slovak Republic, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

34. Albania, Andorra, Belgium, Czech Republic, Iceland, Italy, Luxembourg, Poland, Portugal, Serbia, Slovak Republic, Switzerland, Ukraine.

35. See Chapter XII on Multiple Discrimination.

36. Austria, Denmark, Ireland, Luxembourg, Malta, Netherlands, Norway, Sweden, United Kingdom.

37. Austria, Denmark, Luxembourg, Malta, Netherlands, Norway, Sweden, United Kingdom.

38. Denmark, Netherlands, Norway, Sweden.

39. Denmark, Netherlands, Norway, Sweden.

United Kingdom: In Scotland the 2022 Census included, for the first time, questions related to sexual orientation and trans status or history and included these in a specific report.

CM/Rec(2010)5 Recommendation 2:

Ensure that legislative and other measures are adopted and effectively implemented to combat discrimination on grounds of sexual orientation or gender identity, to ensure respect for the human rights of lesbian, gay, bisexual and transgender persons and to promote tolerance towards them.

41. Compared to the 2019 Review, there has been an increase of six member States (41)⁴⁰ that have proposed or adopted measures to redress discrimination based on SOGIESC. The measures that have been adopted by member States through legislative reform at times meet the Recommendation's standards, and in some cases, go beyond.

42. Recent reforms in some member States since the 2019 Review have sought to extend the application of anti-discrimination legislation, either by adding new grounds or extending the fields to which they apply (including Albania, Andorra, Belgium, Denmark, Finland, Greece, Moldova, Serbia, Spain, and The Netherlands). In other member States, reforms have targeted specific areas, such as establishing registered partnerships for same-sex couples (including Latvia and Montenegro) with some member States that have gone further by securing marriage equality for same sex couples (Andorra, Austria, Estonia, Liechtenstein, Greece, Slovenia, Switzerland). Legal gender recognition has similarly been an area of improvement, where some member States have recently reformed procedures to simplify the process (Finland, Germany, Spain and Switzerland). Many member States have also stepped-up efforts to better protect LGBTI persons from hate speech and hate crime.

43. Some member States have, since the 2019 Review, enacted reforms which are in the spirit of the Recommendation but go beyond its provisions. These measures include implementing or improving upon a ban on conversion practices (Belgium, Cyprus, France, Germany, Greece, Iceland, Malta, Norway, Portugal, Spain) or by establishing bodily integrity protections for intersex persons (France, Germany, Iceland, Spain).

44. In other member States, there have been instances of regression in legislative protections for LGBTI people. These negative developments, which go against the spirit of the Recommendation, might also, in some instances, violate the Convention. Some member States have implemented restrictions around awareness raising of LGBTI issues and banned inclusive curricula in schools.⁴¹ Others, through legislative measures or constitutional court rulings have removed the possibility of legal gender recognition through a binary definition of gender restricted to sex assigned at birth.⁴² In one member State, the protected characteristic of gender identity was removed from its anti-discrimination legislation.⁴³ Such regressive action has not only taken the form of legislative measures, but changes in policies, for instance in the restriction of access to trans specific healthcare for minors and the removal of the recognition of parental rights.⁴⁴

CM/Rec(2010)5 Recommendation 3:

Ensure that victims of discrimination are aware of and have access to effective legal remedies before a national authority, and that measures to combat discrimination include, where appropriate, sanctions for infringements and the provision of adequate reparation for victims of discrimination.

40. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

41. See Chapter III on Freedom of Expression and Peaceful Assembly and Chapter VI on Education.

42. See Chapter IV on Right to Respect for Private and Family Life.

43. [Paragraph 6 of Act V of 2025 on certain amendments related to the fifteenth amendment to the Fundamental Law.](#)

44. See Chapter IV on Right to Respect for Private and Family Life.

45. A majority of member States have implemented legal remedies for victims of discrimination on the ground of sexual orientation (31),⁴⁵ and gender identity (27).⁴⁶ Some member States have also introduced such remedies for victims of discrimination based on gender expression (13)⁴⁷ and sex characteristics (11).⁴⁸ Whilst this provides a positive outlook for the existence of the legal structure on at least some SOGIESC grounds, the effectiveness of these remedies is dependent on a range of factors related to the quality of the regime.

46. In eight member States the remedies included adequate reparations for victims of discrimination on SOGIESC grounds (Belgium, Denmark, Iceland, Ireland, Malta, Norway, Spain and Sweden) and in seven the remedies were effective, proportionate and dissuasive (Denmark, Iceland, Ireland, Malta, Norway, Spain and Sweden). The capacity of the relevant body to ensure sufficient reparation for victims of discrimination will directly affect their willingness to seek such remedies, considering the toll it can take on their mental, physical and financial wellbeing.

Iceland: The Act on the Administration of Matters Concerning Equality (no. 151.2020) enables the Equality Complaints Committee to take binding decisions in individual cases of discrimination. Where the decision is not implemented by the perpetrator of discrimination, the Directorate of Equality may, where measures for remedy are not taken in a reasonable time limit, impose per diem fines until compliance.

Spain: Law 4/2023 establishes a regime of sanctions which classifies infractions from minor, to serious and very serious with each classification carrying a difference in penalties. The potential penalties imposed range from warnings and fines to the prohibition of access to government subsidies or the ability to gain contracts with the public administration.

47. Access to remedies is essential to enable victims of discrimination to seek any available reparations. In 17⁴⁹ member States there are measures that raise awareness and facilitate access to such remedies, even when the violation is committed by a person acting in an official capacity. Seven member States provide victims with legal aid throughout these processes (Bosnia and Herzegovina, Finland, France, Monaco, Norway, Portugal, Slovenia).

45. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Serbia, Slovenia, Spain, Sweden, United Kingdom.

46. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Serbia, Slovenia, Spain, Sweden, United Kingdom.

47. Andorra, Belgium, Denmark, Finland, Iceland, Malta, Montenegro, Netherlands, Norway, Portugal, Slovenia, Spain, Sweden.

48. Belgium, Denmark, Greece, Iceland, Malta, Montenegro, Netherlands, Norway, Portugal, Serbia, Spain.

49. Albania, Austria, Cyprus, Denmark, Finland, France, Germany, Greece, Ireland, Malta, Netherlands, North Macedonia, Norway, Serbia, Spain, Sweden, United Kingdom.

Thematic Chapter I

Right to Life, Security & Protection

PART 1 – HATE CRIME

Annex to the Recommendation CM/Rec(2010)5 Paragraph 1:

Member States should ensure effective, prompt and impartial investigations into alleged cases of crimes and other incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator; they should further ensure that particular attention is paid to the investigation of such crimes and incidents when allegedly committed by law enforcement officials or by other persons acting in an official capacity, and that those responsible for such acts are effectively brought to justice and, where appropriate, punished in order to avoid impunity.

48. Across the region, there is a positive trend of Governments implementing effective, prompt, and impartial investigations into hate crimes and incidents based on SOGIESC grounds. However, there are significant variations in protections depending on the ground.

49. Over two thirds of member States (31)⁵⁰ have adopted such measures to investigate crimes motivated by the victim's sexual orientation. This number is significantly reduced for gender identity (23),⁵¹ gender expression (8)⁵² and sex characteristics (5).⁵³ Some member States consider LGBTI persons as a homogenous group and do not specify the SOGIESC ground.

50. The most common measure that member States have adopted to investigate and address hate crimes against LGBTI persons is through the adoption of criminal laws recognising bias, prejudice or contempt based on sexual orientation, and to a lesser extent gender identity, gender expression, and sex characteristics. The effectiveness of legislative protections also depends on other factors such as the clear definition of the bias ground, but also equipped and trained police services, prosecution, and judicial authorities.

51. Other methods, which can accompany the adoption and facilitate the application of criminal legislation, include where member States have developed national action plans or strategies which address hate crimes against LGBTI persons, including Albania,⁵⁴ France,⁵⁵ Bosnia and Herzegovina,⁵⁶ Spain and Sweden. Others, such as Belgium, Cyprus and Hungary have issued guidelines or protocols to police and prosecutors on investigating and prosecuting bias-based hate crimes, the efficiency of which however depends on the existence of broader legislative and policy anti-discrimination frameworks. In some member States, such as France and Spain, authorities have established specialised units within the police or prosecution services to handle hate crimes, with specialised training also being emphasised by some as a key element to ensure effective investigations. Furthermore, several member States, including Cyprus, Lithuania, Moldova, Serbia, and Spain have set up working groups or committees to enhance cooperation between police services, government agencies and civil society organisations.

50. Albania, Andorra, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Denmark, Finland, France, Georgia, Germany, Greece, Iceland, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Republic of Moldova, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom.

51. Albania, Andorra, Bosnia and Herzegovina, Croatia, Cyprus, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Iceland, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Republic of Moldova, Serbia, Spain, Sweden.

52. Andorra, Denmark, Finland, Malta, Netherlands, Norway, Spain, Sweden.

53. Denmark, Iceland, Malta, Netherlands, Spain.

54. As noted in ECRI's Sixth report on Albania - <https://hudoc.ecri.coe.int/?i=ALB-CBC-VI-2020-023-ENG>.

55. As noted in ECRI's Sixth report on France - <https://hudoc.ecri.coe.int/?i=FRA-CbC-VI-2022-027-ENG>.

56. As noted in ECRI's Fourth report on Bosnia and Herzegovina - <https://hudoc.ecri.coe.int/?i=BIH-CbC-VI-2024-16-ENG>.

France: In 2020 the Central Office for Combating Crimes against Humanity and Hate Crime (OCLCH) established a division of investigators specialising in hate crimes, including those motivated by SOGI based bias.

Spain: The National Office Against Hate Crimes (ONDOD) coordinates strategies to combat hate crimes, including those against LGBTI persons, nationwide. Its work includes victim support, public awareness campaigns and proactive policing.

52. Challenges do remain in effectively addressing hate crimes in many member States, for example in ensuring effective investigations as noted by the Court.⁵⁷

53. Whilst some gaps remain in both policy and practice in relation to the investigation of hate crimes committed by police service personnel or others acting in an official capacity, there is significant progress amongst member States, where 30⁵⁸ have established coherent, consistently implemented and nationwide measures.

54. In some member States allegations of police misconduct are typically investigated by prosecutors' offices, including Albania, Liechtenstein North Macedonia and Slovenia. Others use independent police complaints bodies, including Austria, Cyprus, Denmark, Hungary, and Iceland. Alternative approaches include internal control bureaus within police forces or the Ministry of Justice, such as in Bulgaria, Georgia, Latvia and Lithuania, or Ombuds offices, such as in Andorra, Bosnia and Herzegovina and Greece.

Denmark: The Independent Police Complaints Authority is responsible for investigating criminal cases against police officers, including hate crimes and hate motivated incidents as well as complaints of misconduct. This authority operates in complete independence of the police and prosecutors.

Austria: In January 2024, the Investigation and Complaints Office for Allegations of Police Ill-treatment (EBM) began its work as the authority exclusively responsible for investigating allegations of torture, ill-treatment, and hate-motivated incidents, including on the ground of sexual orientation and gender identity, by police services. Its independence is ensured by a range of structural guarantees, including being external to the police and an independent Advisory Board.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 2:

Member states should ensure that when determining sanctions, a bias motive related to sexual orientation or gender identity may be taken into account as an aggravating circumstance.

55. Hate crime laws considered in this Review take different forms with aggravating circumstances being the most common way to prosecute a hate element amongst member States. Other hate crime laws involve the imposition of specific penalties where a requisite motive is established, or specific offences that address the most common anti-LGBTI crimes.

56. In establishing the definition of a hate crime in law, the Council of Europe Recommendation on Combating Hate Crime CM/Rec(2024)4⁵⁹ recommends that member States use the concept of a hate element. This approach includes "bias, prejudice or contempt" within the definition of a hate crime, broadening the ability to establish hate beyond just bias thereby facilitating prosecution. CM/Rec(2024)4 also recommends that member States include all SOGIESC grounds in listed personal characteristics or status, whether actual or perceived.

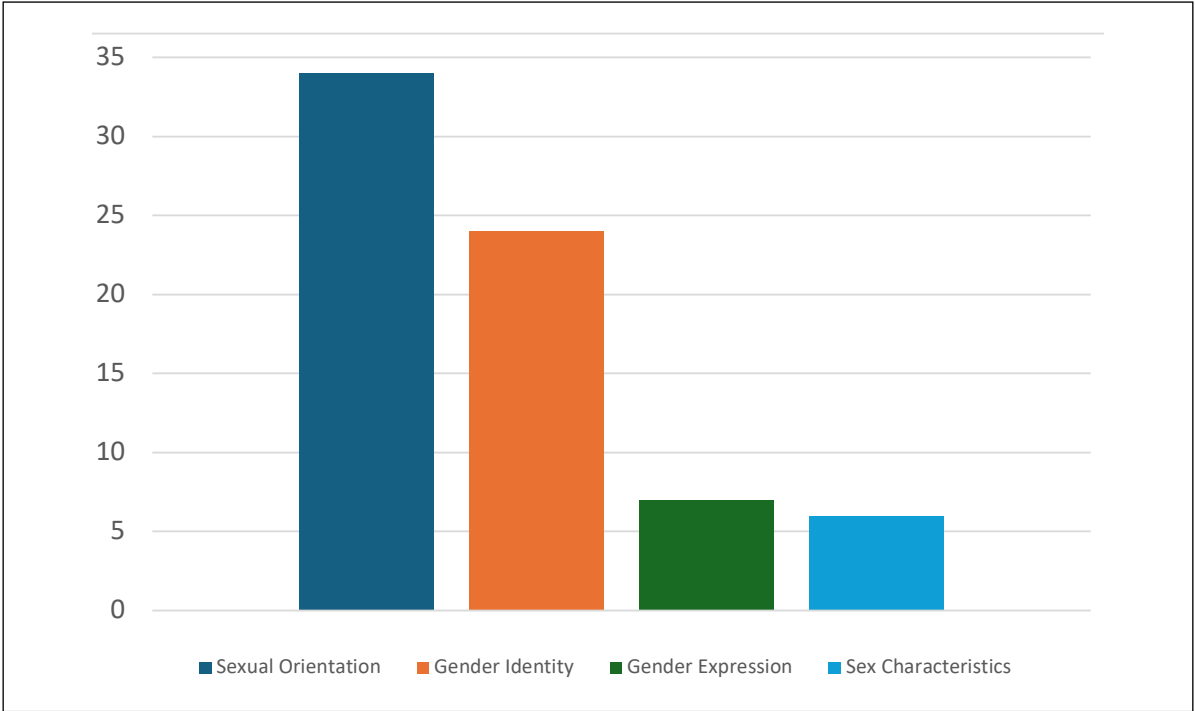
57. See: *Sabalić v. Croatia*, Application no. 50231/13, 14 January 2021, *Stoyanova v. Bulgaria*, Application no. 56070/18, 14 June 2022.

58. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Denmark, Estonia, Georgia, Greece, Hungary, Iceland, Ireland, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, Netherlands, North Macedonia, Norway, Poland, Portugal, Serbia, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

59. Recommendation CM/Rec(2024)4 of the Committee of Ministers to member States on combating hate crime - <https://search.coe.int/cm?i=0900001680af9736>.

57. As in previous Reviews, sexual orientation remains the most commonly protected characteristic in hate crime laws, with 34⁶⁰ member States having some form of legislation covering sexual orientation. Whilst gender identity, gender expression and sex characteristics are specifically mentioned less often, there is a trend towards including these grounds when relevant laws are reformed. Twenty-four (24)⁶¹ member States have laws covering gender identity, seven covering gender expression⁶² and six covering sex characteristics.⁶³ Whilst this shows a marked improvement from the 2019 review, only four member States clearly state all four SOGIESC grounds in their national hate crime legislation, namely Belgium, Denmark, Ireland and Malta.

Number of member States with laws on hate crime covering SOGIESC grounds



58. The positive trend is evidenced with recent legislative reforms in Belgium, Bulgaria, Georgia, Germany, Ireland, and the Republic of Moldova with others, including Poland and Ukraine currently considering hate crime law reforms. For a few member States, relevant laws apply to a certain part of their territory such as is the case in the United Kingdom, where in Scotland, sex characteristics is mentioned in their hate crime laws adopted in 2021.

Ireland: The Criminal Justice (Hate Offences) Act 2024 explicitly recognises gender as being inclusive of gender identity and gender expression as well as sexual orientation and sex characteristics as protected characteristics. The Act, in line with CM/Rec(2024)4, specifies that the designated offences should be considered as aggravated if the accused demonstrates hatred towards the victim immediately before, during, or after committing the crime, and this hatred is based on the victim's membership or presumed membership of a group defined by the protected characteristic.

59. Once such protected characteristics are enumerated in laws, maintaining their presence is essential. In Republika Srpska in Bosnia and Herzegovina, a law removing the term “gender identity” in parts of the Criminal Code was adopted by the National Assembly of the Republic of Srpska in 2025. The removal of the ground from the criminal code undermines the ability of transgender persons to seek justice in crimes against them motivated by their gender identity.

60. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Lithuania, Luxembourg, Malta, Monaco, Montenegro, North Macedonia, Norway, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom.

61. Albania, Andorra, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Denmark, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Luxembourg, Malta, Montenegro, North Macedonia, Norway, Portugal, Republic of Moldova, Serbia, Spain, Sweden.

62. Andorra, Belgium, Denmark, Ireland, Malta, Norway, Sweden.

63. Belgium, Denmark, Greece, Iceland, Ireland, Malta.

Bulgaria: Following the Court's ruling in *Stoyanova v. Bulgaria* (2022), which required Bulgaria to ensure that in violent attacks, hostility towards a victim's sexual orientation is treated as an aggravating circumstance under criminal law, in 2023 the Government introduced an amendment to their penal code imposing stricter penalties for several offences when motivated by the victim's sexual orientation.

60. According to the first recommendation in the Thematic Report⁶⁴ on hate crimes based on sexual orientation, gender identity, gender expression, and sex characteristics, and the Recommendation on Combating Hate Crime CM/Rec(2024)4⁶⁵ member States should adopt standardised and clear definitions of hate crimes, including protected grounds. Significant progress has been made in this vein. For example, Norway clarified their legal terminology in their criminal code by replacing "homosexual orientation" with "sexual orientation" in 2021, whilst the term "sexual orientation" had already existed in their anti-discrimination law since 2014.

61. At the same time, reforms in some member States continue to use vaguely defined terms that could implicitly cover SOGIESC grounds. For instance, it can be uncertain whether "gender", where it is recognised, also encompasses gender identity and expression. Additionally, "sex" can be interpreted to include "sex characteristics", but this is not consistently applied in this manner across member States' judiciaries. Recent reforms in Armenia and Latvia use general terms to define the protected characteristics under which an offence could be considered as aggravated, such as "social hatred" or "other personal or social circumstances". Civil society and academic experts have raised concerns about the inefficiency of such vague terms and stressed the importance of ensuring that hate crime laws, once enacted, are effectively implemented.⁶⁶

Annex to the Recommendation CM/Rec(2010)5 Paragraph 3:

Member states should take appropriate measures to ensure that victims and witnesses of sexual orientation or gender identity related "hate crimes" and other hate-motivated incidents are encouraged to report these crimes and incidents; for this purpose, member states should take all necessary steps to ensure that law enforcement structures, including the judiciary, have the necessary knowledge and skills to identify such crimes and incidents and provide adequate assistance and support to victims and witnesses.

62. System-wide implementation of supportive policies across the criminal justice system remains a challenge. An important indicator of an accessible criminal justice system is how at the initial stage of the criminal justice process, member States encourage and support the reporting of hate crimes against LGBTI persons. Ten (10) member States (Austria, Denmark, Finland, France, Greece, Iceland, the Netherlands, Norway, Spain and the United Kingdom) have indicated measures to ensure that victims and witnesses of hate crimes and incidents against LGBTI persons are encouraged to report them. Such measures include multilingual materials and guides for victims (Austria and Greece), collaborations with vulnerable groups to build trust (Norway), information campaigns (Iceland), and alternative reporting mechanisms (Finland).

63. Reporting of hate crimes and incidents is facilitated where there are anonymous, online, and third-party reporting mechanisms available for victims and witnesses. Thirteen (13)⁶⁷ member States have indicated clear measures, such as offering online platforms and hotlines for anonymous reporting, ensuring accessibility and confidentiality, some of which are not always hate crime specific or not solely for LGBTI victims. France, Germany, Hungary, Lithuania, and the United Kingdom have well-established systems for anonymous or third-party reporting.

Germany: The Federal Government funds an online reporting platform "[Meldestelle-respect.de](https://meldestelle-respect.de)" for hate speech and other offences and, where necessary, reports are forwarded to the police for further action. This is supported by additional regional and local reporting platforms such as in Bavaria, Hamburg and Hesse which facilitate anonymous reporting.

64. Thematic review of the implementation of Recommendation CM/Rec(2010)5 of the Committee of Ministers to member States on measures to combat discrimination based on sexual orientation or gender identity - <https://search.coe.int/cm?i=0900001680ac3af4>.

65. Recommendation CM/Rec(2024)4 of the Committee of Ministers to member States on combating hate crime - <https://search.coe.int/cm?i=0900001680af9736>.

66. Thematic review of the implementation of Recommendation CM/Rec(2010)5 of the Committee of Ministers to member States on measures to combat discrimination based on sexual orientation or gender identity - <https://search.coe.int/cm?i=0900001680ac3af4>.

67. France, Greece, Hungary, Iceland, Latvia, Lithuania, Malta, Netherlands, Portugal, Slovak Republic, Slovenia, Spain, United Kingdom.

64. Specialised units covering crimes against LGBTI persons, which enable police services and prosecutors to better execute their role are present in 10⁶⁸ member States. France, Germany, and Spain have both specialised police and prosecutor units. These specialised units also enable the authorities to approach hate crimes against LGBTI persons in a sensitive manner, improving the experience of the victims of the criminal justice system, thereby encouraging further reporting. New police units to investigate hate crimes have been established in Czech Republic and Romania and discussions are underway in Bulgaria on creating such specialised units.

Romania: In 2021 a specialised police unit was established to investigate hate crimes, including those against LGBTI persons, working in collaboration with civil society organisations. In addition, each territorial police unit now has a dedicated police officer within the Criminal Investigation Service.

65. The 2019 Review reported a concern regarding the knowledge and skills in police services and the judiciary, and while a comprehensive system-wide rollout of training might still be lacking in some member States, there has since been an increased focus on training relevant services. Notably, 33⁶⁹ member States have implemented measures to train police services, with partial measures in an additional eight⁷⁰ member States. Over half of member States have implemented training for prosecutors and the judiciary. Only three member States provide training for legal aid lawyers, a key part of the criminal justice system which supports the most vulnerable members of the LGBTI community.

66. There has been a positive effort in ensuring the sustainability of such training, another concern reported in the 2019 Review, particularly through the integration of modern technologies to make trainings more accessible, flexible, and cost-effective. Austria, Cyprus, Denmark, Finland, France, Germany, Ireland, the Netherlands, Portugal, and Sweden have demonstrated promising measures in this area. Member States also co-operate with international organisations and civil society organisations to implement training. However, in some cases, such training is provided in an ad hoc manner.

67. Through cooperation with the Council of Europe, member States including Albania, Bulgaria, France, Greece, Italy, Lithuania, Portugal, Romania, Spain and Ukraine have adapted the specialised manual “Policing Hate Crime Against LGBTI Persons: Training for a Professional Police Response”⁷¹ which supports national police training in this area. A revised version of this manual was adopted in March 2025, which integrates intersectionality, promotes a civil society inclusive approach throughout and has additional materials on interviewing LGBTI victims, witnesses of crimes and perpetrators.

Ireland: Since 2022, Garda staff, Ireland’s national police force, are mandated to undertake the *Facing Facts* online training, implemented in collaboration with Civil Society Organisations, which covers both bias detection and working with victims. As of 2023, the programme had a high completion rate of 86.5%.

68. The nature and content of training programmes, when available, often focus on general hate crime awareness rather than victim support. Positive examples of more comprehensive trainings were demonstrated in member States such as Iceland, Malta, Portugal, and the United Kingdom.

Malta: The Victim Support Agency, established in 2021 offers a range of services, including psychological support and legal assistance, tailored for LGBTI victims. Training has also been developed for shelter and elderly care professionals to ensure inclusivity across all support systems.

68. Croatia, Greece, Iceland, Netherlands, Norway, Portugal, Romania, Serbia, Slovak Republic, Spain, Sweden.

69. Austria, Bosnia and Herzegovina, Croatia, Cyprus, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Malta, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Ukraine, United Kingdom.

70. Albania, Andorra, Armenia, Belgium, Bulgaria, Czech Republic, Luxembourg, Türkiye.

71. <https://edoc.coe.int/en/lgbt/7405-policing-hate-crime-against-lgbti-persons-training-for-a-professional-police-response.html>.

69. As noted in the 2019 Review and the 2023 Thematic Report⁷² on hate crimes based on SOGIESC, a key issue which affects reporting of crimes is the lack of trust between authorities and LGBTI persons. A way of assuaging this distrust is the establishment of liaison officers to bridge the gap between police services and LGBTI persons. However, most member States have not implemented this infrastructure, with only 10⁷³ having such officers, and a further eight⁷⁴ adopting partial measures, such as at a regional level. Member States like Belgium, Germany, Ireland, the Netherlands, and the United Kingdom have well-established systems of liaison officers dedicated to maintaining contact with LGBTI communities and supporting victims of hate crimes. In Bosnia and Herzegovina, Montenegro, and Serbia, contact police officers are appointed in some areas to undertake this function.

Montenegro: The LGBTI Trust Team, established within the police directorate, is dedicated to addressing the needs of the LGBTI community.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 4:

Member states should take appropriate measures to ensure the safety and dignity of all persons in prison or in other ways deprived of their liberty, including lesbian, gay, bisexual and transgender persons, and in particular take protective measures against physical assault, rape and other forms of sexual abuse, whether committed by other inmates or staff; measures should be taken so as to adequately protect and respect the gender identity of transgender persons.

70. Progress in ensuring the safety and dignity of LGBTI people deprived of liberty, especially trans women,⁷⁵ remains limited. Eighteen (18)⁷⁶⁷⁷ member States have reported implementing some form of training programme or code of conduct for prison staff, including partial measures, for instance limited regionally, or not consistently implemented, which covers sexual orientation and gender identity and more comprehensive or targeted measures are rare. Such action is significantly less common for gender expression (nine member States)⁷⁸ and sex characteristics (six member States).⁷⁹

71. The importance of protecting persons deprived of their liberty, including LGBTI persons, against hate crimes was recognised in the Recommendation on Hate Crime,⁸⁰ which recommended the introduction of complaint mechanisms and effective investigation of hate crimes, including when committed by officials.

72. Only five member States have specific measures to avoid solitary confinement for LGBTI detainees, with variations on inclusivity of the SOGIESC grounds, (France, Italy, Romania, Serbia and the United Kingdom) and eight member States (Cyprus, Denmark, Greece, Italy, Malta, Portugal, Spain and the United Kingdom) have measures to address their specific healthcare needs, such as hormone replacement therapy for transgender persons. The need to ensure appropriate access to trans specific healthcare has been underlined by the Court⁸¹ and reported on by the Council of Europe anti-torture Committee.⁸²

73. Most member States consider legally recognised gender for placement decisions in detention facilities; however, only a few consider self-determined gender identity on a case-by-case basis in the placement decision making process. Belgium, Cyprus, Denmark, France, and Greece have reported significant strides in the area of management of LGBTI detainees.

72. Thematic review of the implementation of Recommendation CM/Rec(2010)5 of the Committee of Ministers to member States on measures to combat discrimination based on sexual orientation or gender identity - <https://search.coe.int/cm?i=0900001680ac3af4>.

73. Albania, Austria, Cyprus, France, Ireland, Montenegro, Netherlands, Serbia, Slovenia, Sweden

74. Belgium, Bosnia and Herzegovina, Denmark, Germany, Lithuania, Norway, Poland, United Kingdom.

75. See also the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) 33rd General Report - <https://rm.coe.int/1680af71cd>.

76. Sexual orientation: Austria, Bosnia and Herzegovina, Cyprus, Denmark, France, Germany, Greece, Iceland, Italy, Liechtenstein, Lithuania, Montenegro, Netherlands, Norway, Portugal, Spain, Switzerland, United Kingdom.

77. Gender identity: Austria, Bosnia and Herzegovina, Croatia, Cyprus, Denmark, France, Germany, Greece, Iceland, Italy, Liechtenstein, Montenegro, Netherlands, Norway, Portugal, Spain, Switzerland, United Kingdom.

78. Austria, Bosnia and Herzegovina, Cyprus, Denmark, Germany, Iceland, Netherlands, Norway, Portugal

79. Bosnia and Herzegovina, Cyprus, Denmark, Iceland, Netherlands, Portugal.

80. Recommendation CM/Rec(2024)4 of the Committee of Ministers to member States on combating hate crime - <https://search.coe.int/cm?i=0900001680af9736>.

81. *W.W. v. Poland*, Application no. 31842/20, 11 July 2024.

82. <https://www.coe.int/en/web/cpt/-/the-council-of-europe-anti-torture-committee-cpt-2023-general-report-focuses-on-the-protection-of-transgender-persons-in-prison>.

Belgium: Guidelines issued in 2023 ensure that inmates receive the same medical treatments as they would outside prison and allows trans inmates to request housing according to their gender identity.

Greece: Law 4985/2022 allows for trans inmates to request placement in prison facilities that match their gender identity.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 5:

Member states should ensure that relevant data are gathered and analysed on the prevalence and nature of discrimination and intolerance on grounds of sexual orientation or gender identity, and in particular on “hate crimes” and hate-motivated incidents related to sexual orientation or gender identity.

74. Whilst there is some progress in the collection of data, there is more work to be done in this area. Over half of member States can register, in some form, cases related to anti-LGBTI hate crimes, although the sophistication of their data collection and case management systems vary, especially with respect to the SOGIESC ground concerned. For instance, 18⁸³ member States record sexual orientation as a bias motive, 16⁸⁴ record gender identity, three⁸⁵ record gender expression and two⁸⁶ record sex characteristics.

75. Due to the difference in systems between police services and the judiciary, tracking cases throughout their lifecycle is in most cases impossible. Furthermore, statistical systems often struggle with categorising crimes by intersecting identities.

76. Recent improvements aimed at better understanding the nature of hate crimes were noted in several member States, often involving collaboration with civil society organisations. For example, Belgium optimised the registration of hate crimes through a working group focused on addressing technical challenges in recording cases with multiple bias motivations, while Denmark introduced a system to register judgements with hate crime sentence enhancements.

77. While just over half of member States can provide some form of statistics, at least partially, regarding hate crimes or hate incidents, with hate elements related to sexual orientation and gender identity, none do so fully across all SOGIESC grounds. Moreover, when the data is available, it is often affected by continued problems of underreporting of hate crimes by LGBTI victims.⁸⁷

78. A few member States, including Denmark, France, Sweden, and the United Kingdom, regularly publish detailed statistical reports, providing insights into trends and hate elements related to whether the victim is LGBTI.

79. On wider methods of data collection, most member States have not introduced state-sponsored surveys or studies that analyse hate crimes and hate-motivated incidents. State-sponsored surveys specifically measuring hate crimes, including partially, related to sexual orientation exist in 17⁸⁸ member States. Of these, 15⁸⁹ also include hate crimes targeting gender identity, while only five address gender expression and sex characteristics.

80. Some of these member States, including Denmark, Norway, Finland, Sweden, and the United Kingdom use regularly administered hate crime surveys which track both the scale of hate crime and the reporting rates, with varying levels of inclusion beyond sexual orientation and involving transgender, non-binary, and

83. Austria, Belgium, Cyprus, Denmark, Finland, France, Georgia, Germany, Hungary, Iceland, Ireland, Lithuania, Netherlands, North Macedonia, Norway, Poland, Sweden, United Kingdom.

84. Austria, Belgium, Cyprus, Denmark, Finland, France, Georgia, Germany, Hungary, Iceland, Netherlands, North Macedonia, Norway, Poland, Sweden, United Kingdom.

85. Belgium, Denmark, Norway.

86. Belgium, Denmark.

87. See for instance ECRI's: Fourth report on Serbia - <https://hudoc.ecri.coe.int/?i=SRB-CbC-VI-2024-19-ENG>, Sixth report on North Macedonia - <https://hudoc.ecri.coe.int/?i=MKD-CbC-VI-2023-28-ENG>, Sixth report on Poland - <https://hudoc.ecri.coe.int/?i=POL-CbC-VI-2023-29-ENG>.

88. Austria, Belgium, Denmark, Estonia, Finland, Georgia, Germany, Iceland, Luxembourg, Montenegro, Netherlands, Norway, Portugal, Spain, Sweden, Ukraine, United Kingdom.

89. Austria, Belgium, Denmark, Finland, Georgia, Germany, Iceland, Luxembourg, Montenegro, Netherlands, Norway, Portugal, Spain, Sweden, United Kingdom.

intersex groups. In a positive trend, other member States including Austria, the Czech Republic and Spain have recently implemented state supported surveys of hate crime victimisation, with plans for continuation.

81. In some member States, limited survey data is available through work undertaken by civil society organisations or as part of international research or projects, such as in Georgia through the “Fight against Discrimination, Hate Crimes and Hate Speech in Georgia,” project financed by the Council of Europe and the European Union. FRA in its LGBTIQ Survey III⁹⁰ provides a rich dataset for EU countries as well as the EU accession countries of Albania, North Macedonia and Serbia. In North Macedonia, the OSCE Mission to Skopje conducted hate crime victimisation surveys in 2019 and a follow-up in 2023. Whilst these initiatives are helpful in providing much needed data, the utility of such data can be hampered by a lack of regularity.

82. In a few member States, progressive research has been undertaken which incorporates intersectional perspectives. In 2021, the Institute of Criminology and Legal Policy (ICLP) at the University of Helsinki, conducted research on hate crime victimisation among LGBTI youth. In the Netherlands, research published in 2022 by the Social and Cultural Planning Office (SCP) highlighted the higher rates of victimisation faced by LGB individuals with a migration background. In Sweden in 2022, research initiated by the Public Health Agency of Sweden addressed intersectional discrimination and hate crimes affecting vulnerable groups, including individuals with HIV, bisexual persons, members of indigenous populations and national minorities.

83. Monitoring the prevalence and nature of discrimination and intolerance, a key factor affecting hate crimes and hate incidents, has seen limited progress, whilst some recent improvements have been noted. Of the 20⁹¹ member States that gather data on social acceptance levels of LGB people, including at least partially, 16⁹² also collect data on transgender individuals. A minority of member States, including Belgium, Denmark, Finland, the Netherlands, Norway, and Serbia, have implemented comprehensive and regular measures to understand the social situation of LGBTI people, with varying attention to transgender, non-binary, and intersex individuals.

Serbia: The Commissioner for the Protection of Equality carries out recurrent research studies on public attitudes towards groups vulnerable to discrimination, including LGBTI people.

PART 2 – HATE SPEECH

Annex to the Recommendation CM/Rec(2010)5 Paragraph 6:

Member states should take appropriate measures to combat all forms of expression, including in the media and on the Internet, which may be reasonably understood as likely to produce the effect of inciting, spreading or promoting hatred or other forms of discrimination against lesbian, gay, bisexual and transgender persons. Such “hate speech” should be prohibited and publicly disavowed whenever it occurs. All measures should respect the fundamental right to freedom of expression in accordance with Article 10 of the Convention and the case law of the Court.

84. In a continuingly positive trend building from what was reported in the 2019 Review, 74% of member States (34)⁹³ prohibit incitement to hatred, discrimination and violence related to sexual orientation, compared to 64% in the 2019 Review, whereas only 40% of member States (18)⁹⁴ have measures addressing gender identity. A few member States have amended their criminal codes to include gender expression and sex characteristics as protected grounds. Notably, both Greece and Serbia have modified legislation to extend the prohibition of hate speech to include such actions founded on an individual’s sex characteristics.

90. <https://fra.europa.eu/en/project/2022/eu-lgbtiq-survey-iii>.

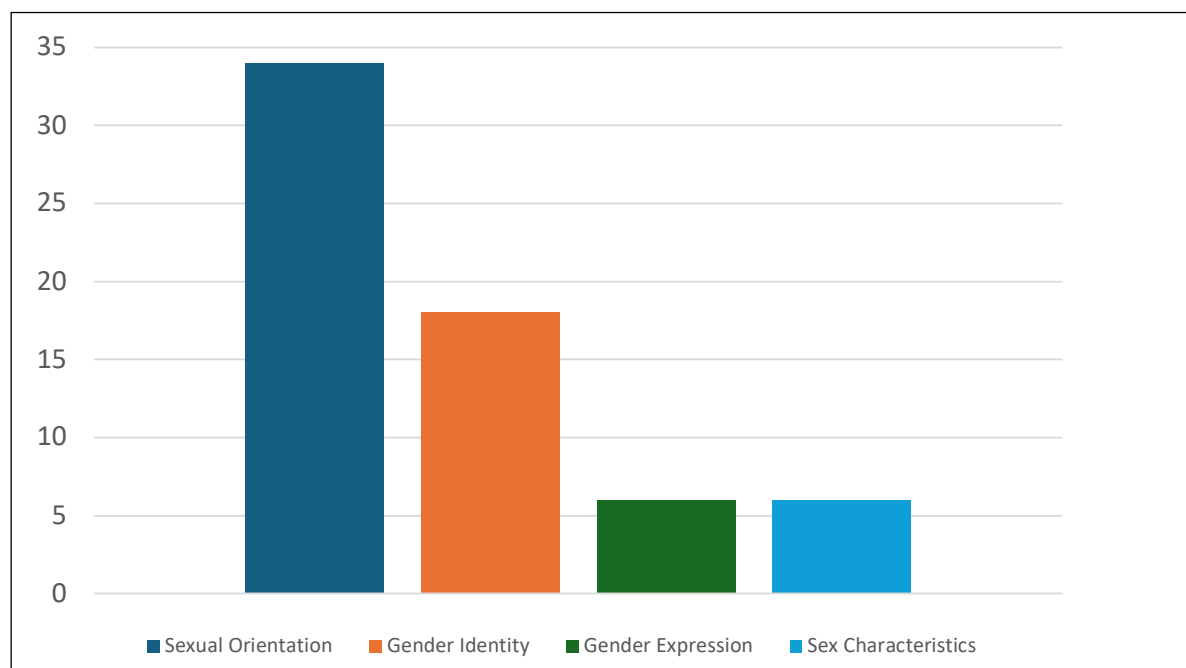
91. Andorra, Austria, Belgium, Czech Republic, Finland, France, Germany, Ireland, Italy, Netherlands, Norway, Poland, Republic of Moldova, Romania, Serbia, Slovak Republic, Spain, Sweden, Ukraine, United Kingdom.

92. Austria, Belgium, Czech Republic, Finland, France, Italy, Netherlands, Norway, Poland, Republic of Moldova, Serbia, Slovak Republic, Spain, Sweden, Ukraine, United Kingdom.

93. Albania, Austria, Belgium, Bulgaria, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, Norway, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

94. Belgium, Croatia, Cyprus, Denmark, France, Greece, Hungary, Iceland, Luxembourg, Malta, Montenegro, Norway, Portugal, Republic of Moldova, San Marino, Serbia, Spain, Sweden.

Number of member States with laws on hate speech covering SOGIESC grounds



85. The need to ensure effective investigations of online hate has also been recognised by the Court.⁹⁵ The EU Digital Services Act has been a driver in EU member States, particularly in operationalising existing hate speech prohibitions, where its transposition has improved and harmonised efforts to combat online hate speech. As reported in Croatia, France and Germany, the implementation of the new requirements helps to establish a uniform standard for removing online hate speech, ensuring platform accountability, and implementing user protection mechanisms to tackle transnational challenges. However, challenges remain in clearly defining which expressions of hate speech are subject to criminal liability, such as those listed in the Council of Europe Recommendation on Combating Hate Speech CM/Rec(2022)16.⁹⁶

86. Moreover, there is a notable improvement in establishing ethical guidelines for media in some member States. For example, the Code of Ethics of the Latvian Media Ethics Council prohibits discrimination and incitement to hatred.

87. However, significant gaps persist in many jurisdictions where state initiatives are limited. In such cases, civil society organisations play a critical role in monitoring and reporting hate speech, as well as initiating legal challenges. As reported by civil society, there is an increase in pending cases of hate speech on the grounds of a person's sexual orientation at the European Court of Human Rights.

88. Accessing legal resolutions to instances of hate speech against LGBTI persons can prove challenging and approaches to this vary significantly across member States. In addition to prosecutors, 13⁹⁷ member States allow private individuals to initiate criminal legal proceedings, while significantly more permit action also through civil proceedings. However, far fewer allow civil society organisations, human rights institutions, or equality bodies to initiate such proceedings, which can limit access to justice for those of insufficient means or capacity to pursue cases themselves.

89. The Council of Europe Recommendation on Combating Hate Speech CM/Rec(2022)16⁹⁸ calls on member States to empower equality bodies and civil society organisations, that have a legitimate interest in combating hate speech, to be able to assist and represent those targeted by hate speech in legal proceedings and allow them to take legal actions in respect of hate speech, including, where applicable, in their own name.

95. See *Beizaras and Levickas v. Lithuania*, Application no. 41288/15, 14 January 2020 and *Oganezova v. Armenia*, Applications nos. 71367/12 and 72961/12, 17 May 2022.

96. Recommendation CM/Rec(2022)16 of the Committee of Ministers to member States on combating hate speech - <https://search.coe.int/cm?i=0900001680a67955>.

97. France, Greece, Latvia, Luxembourg, Monaco, Netherlands, Norway, Poland, Republic of Moldova, Serbia, Slovenia, Spain, Sweden.

98. Recommendation CM/Rec(2022)16 of the Committee of Ministers to member States on combating hate speech - <https://search.coe.int/cm?i=0900001680a67955>.

90. In some member States, such as Bosnia and Herzegovina and Croatia, equality bodies have the ability to play a central role in addressing hate speech complaints. In Belgium and Lithuania, civil society organisations can advocate for victims and submit crime reports to prosecutors or courts.

France: The Freedom of the Press Act of 29 July 1881, as amended in 2021, provides comprehensive protection against homophobic and transphobic hate speech, with an aggravating circumstance when such incitement is committed by public officials. Prosecution guidelines encourage proactive approaches to handling such cases, while tools like the *Flag!* App offer victims and witnesses accessible reporting channels.

Annex to the Recommendation CM/Rec(2010)5 Paragraphs 7 and 8:

Member states should raise awareness among public authorities and public institutions at all levels of their responsibility to refrain from statements, in particular to the media, which may reasonably be understood as legitimising such hatred or discrimination.

Public officials and other state representatives should be encouraged to promote tolerance and respect for the human rights of lesbian, gay, bisexual, and transgender persons whenever they engage in a dialogue with key representatives of the civil society, including media and sports organisations, political organisations and religious communities.

91. Progress in ensuring that public authorities and public institutions are aware of their responsibility to refrain from statements legitimising hatred or discrimination is limited, with less than a third of member States having implemented specific measures. The CM/Rec(2022)16⁹⁹ goes further and calls for public officials to publicly promote a culture of human rights and to condemn hate speech firmly and promptly, whilst respecting freedom of expression and information.

92. When member States enact such measures, they can entail consequences for politicians, including disciplinary measures such as in Albania or the possibility for the removal of immunity such as in Lithuania. The Charter of European political parties for a non-racist and inclusive society¹⁰⁰ encourages such measures. In some member States such as Ireland, Malta and the United Kingdom, public bodies are legally obligated under anti-discrimination laws to promote equality, prevent discrimination, and foster inclusivity.

Albania: The Code of Conduct for Members of Parliament explicitly prohibits MPs from engaging in hate speech, including racist, homophobic, and transphobic statements, in both parliamentary activities and public discourse. The Code includes disciplinary measures for MPs who violate its provisions.

93. Training and awareness raising among public institutions are critical components to ensuring progress in this area. For example, Denmark and France promote tools for public officials to raise awareness of discrimination and responsibilities regarding countering hate speech. In some member States, governments and public figures play an active role in publicly opposing hate speech and demonstrating inclusivity. For example, in Norway, high-ranking government officials actively participate in LGBTI events, such as Pride marches and public discussions. Spain similarly encourages public officials to openly denounce hate speech and demonstrate solidarity with LGBTI communities.

94. Under half of member States (19)¹⁰¹ have implemented specific measures encouraging officials and other state representatives to promote tolerance of LGBTI persons. These measures can take the form of training and awareness-raising activities for public officials and state representatives. Additionally, partial measures, particularly at local levels, are present in a further 10¹⁰² member States.

99. Recommendation CM/Rec(2022)16 of the Committee of Ministers to member States on combating hate speech - <https://search.coe.int/cm?i=0900001680a67955>.

100. <https://pace.coe.int/en/pages/no-hate-politicalchart>.

101. Albania, Belgium, Bosnia and Herzegovina, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Luxembourg, Malta, Montenegro, Netherlands, Norway, Slovenia, Spain, Sweden, United Kingdom.

102. Austria, Croatia, Cyprus, Estonia, Georgia, Italy, North Macedonia, Portugal, Serbia, Switzerland.

95. Measures encouraging public officials to promote tolerance and respect for the human rights of LGBTI people, where they exist, are often incorporated in collaboration with LGBTI civil society organisations that help design and implement inclusive policies. For example, Belgium provides financial and institutional support for civil society groups and employee networks to promote inclusivity and counter discrimination. In some member States, such as Malta and the United Kingdom, efforts to promote tolerance extend to traditionally challenging sectors, such as sports and politics.

96. Conversely, there has been very limited progress in engaging religious communities to promote tolerance and respect for LGBTI rights, although a few member States, such as Austria and Finland, encourage religious leaders to combat prejudice and promote understanding. In some member States, the bulk of measures happen at the local and regional levels, such as in Germany, Switzerland, and the United Kingdom.

Belgium: Federal funding is provided to LGBTI organisations, and authorities collaborate with civil society through the BePROUD LGBTQIA+ network for public servants, promoting inclusivity and countering discrimination.

Germany: In 2022, the Federal Government Commissioner for the Acceptance of Sexual and Gender Diversity was appointed. The Commissioner acts as a liaison between civil society and the federal government, raises public awareness for LGBTIQ rights, and fosters a social climate that values diversity. Furthermore, the Commissioner coordinates the Federal Government's LGBTIQ policy initiatives with the relevant Ministers and took a leading role in the development of the Federal Government's action plan, overseeing both its implementation and the participatory process involving over 70 organisations and associations.

Thematic Chapter II

Freedom of Association

Annex to the Recommendation CM/Rec(2010)5 Paragraph 9:

Member states should take appropriate measures to ensure, in accordance with Article 11 of the Convention, that the right to freedom of association can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; in particular, discriminatory administrative procedures, including excessive formalities for the registration and practical functioning of associations, should be prevented and removed; measures should also be taken to prevent the abuse of legal and administrative provisions, such as those related to restrictions based on public health, public morality and public order.

97. While in almost all member States LGBTI civil society organisations are able to get officially registered¹⁰³ without facing strict legal impediments, in a few member States LGBTI civil society can face practical challenges in the registration process, such as excessive administrative formalities.

98. LGBTI organisations may be subject to further legal attempts to stop or limit their work such as by attempting the dissolution of LGBTI associations on the basis of “good morals”. Additionally, cases known as strategic lawsuits against public participation (SLAPPs), a form of abusive legal action which require their targets to devote resources to defending themselves in court, have also prevented LGBTI civil society organisations from carrying out their advocacy work and service provision to LGBTI persons. Many member States have yet to take action to protect LGBTI associations from these impediments. Positively in 2024 the Council of Europe adopted a Recommendation on countering the use of strategic lawsuits against public participation CM/Rec(2024)2¹⁰⁴ which provides standards and guidance on how member States can combat SLAPPs and refers to the particular vulnerability of LGBTI persons. In the same year the EU adopted a Directive¹⁰⁵ on SLAPPs, which aims to improve protections for civil society in those EU member States. Furthermore, LGBTI civil society can be subject to an abusive use of auditing and excessive administrative procedures.¹⁰⁶

99. In a large majority of member States LGBTI associations are able to undertake key activities without facing legal limitations, including cooperating with public authorities (40),¹⁰⁷ engaging with equality bodies (42),¹⁰⁸ working with the media (42),¹⁰⁹ undertaking research (42)¹¹⁰ and taking part in training sessions

103. On refusal to register the grounds of the protection of morals, family values, sovereignty or the rights of others in a former Council of Europe member State see *Zhdanov and others v. Russia*, Application No. 12200/08, 16 July 2019.

104. Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs) - <https://rm.coe.int/0900001680af2805>.

105. Directive (EU) 2024/1069 of the European Parliament and of the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings ('Strategic lawsuits against public participation') - <http://data.europa.eu/eli/dir/2024/1069/oj>.

106. See for instance ECRI's Fifth Report on Azerbaijan - <https://hudoc.ecri.coe.int/?i=AZE-CbC-VI-2023-18-ENG>.

107. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

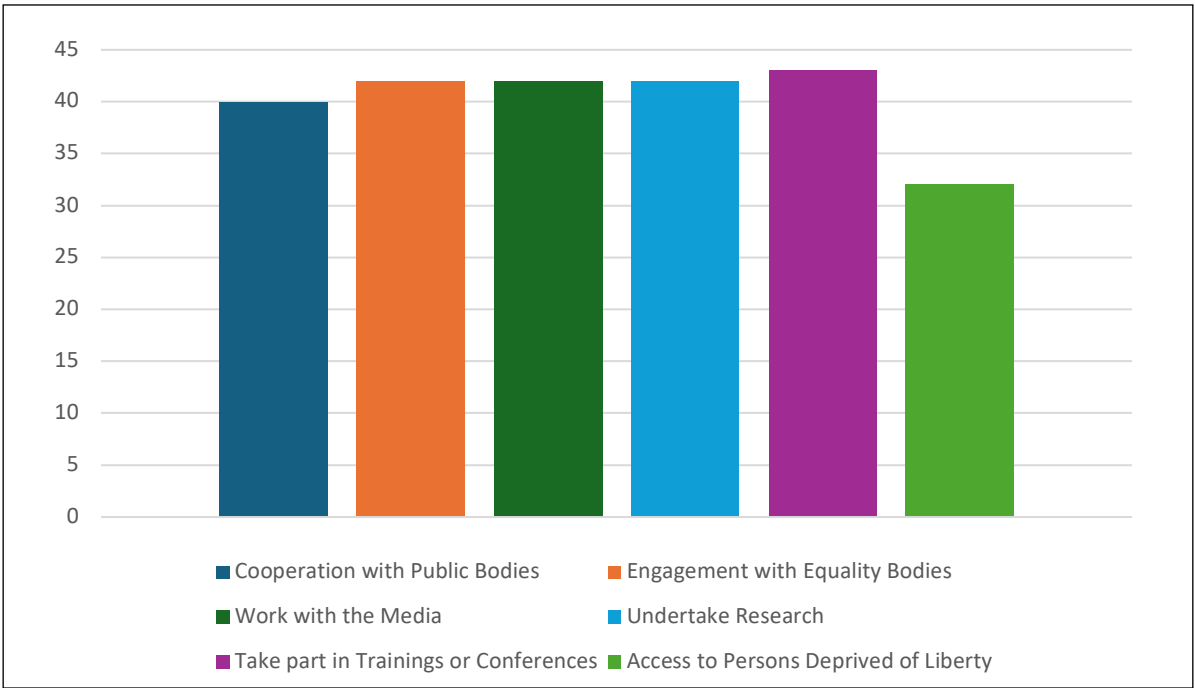
108. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

109. Albania, Andorra, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

110. Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

or conferences (43).¹¹¹ This positive outlook is not, however, reflected to the same extent when it comes to access to persons deprived of their liberty, with 32¹¹² member States permitting such engagement.

Number of member States without legal limitations for activities of LGBTI associations



Annex to the Recommendation CM/Rec(2010)5 Paragraph 10:
Access to public funding available for non-governmental organisations should be secured without discrimination on grounds of sexual orientation or gender identity.

100. In *Kobaliya and others v. Russia*¹¹³ the Court ruled that so-called ‘foreign agent legislation’ which impacts independent associations, including LGBTI civil society organisations, violates both Article 11 and Article 10 of the Convention. The Court noted how the aim of this legislation is to discourage participation in public discourse rather than the purported aims of transparency or national security.

101. With the exception of four member States, LGBTI civil society organisations are not explicitly prevented from applying for public funding. However, practices in some member States negatively impact access. Where such funding is not available nationally, LGBTI organisations are increasingly reliant on external funding streams.

102. In such cases, legislation impeding the ability to receive external funding can be particularly detrimental to the sustained activities of LGBTI civil society. The introduction of measures that impose prohibitive burdens, or intentions and attempts to introduce such measures in member States, has arisen at the national or regional level, since the 2019 Review. The Venice Commission has issued Opinions on two such laws.¹¹⁴

103. LGBTI civil society organisations have strongly criticised these legislative reforms, especially their detrimental impact on LGBTI persons in affected member States.

111. Albania, Andorra, Armenia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.
112. Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Iceland, Ireland, Liechtenstein, Lithuania, Luxembourg, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.
113. *Kobaliya and Others v. Russia*, Applications Nos. 39446/16 and 106 others, Judgment of 22 October 2024.
114. Venice Commission Opinions: CDL-AD(2024)001 1169/2023 - Hungary - Opinion on Act LXXXVIII of 2023 on the Protection of National Sovereignty and CDL-AD(2024)020 1190/2024 - Georgia - Urgent Opinion on the Law of Georgia on Transparency of Foreign Influence.

104. To better allow for long-term planning, some member States have ensured that national funding systems that are accessible for LGBTI civil society allow for multi-year funding cycles, focus on different groups and include local level governance, such as in Belgium, Ireland, Spain and Sweden.

Belgium: Since 2024, a structural financing procedure for umbrella civil society organisations working on discrimination based on SOGIESC has been in place, granting five-year approvals and annual subsidies. The Institute for the Equality of Women and Men (IEWM) funds several organisations working in the fields of gender, trans and intersex equality.

Ireland: In October 2023, the Minister for Children, Equality, Disability, Integration, and Youth allocated over €1 million in funding to 26 LGBTI+ projects. Since 2019, under the Dormant Account Action Plan, the Department of Rural and Community Development has allocated €200,000 annually, increasing to €383,000 in 2023, to support LGBTI+ organisations assisting marginalised groups.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 11:

Member states should take appropriate measures to effectively protect defenders of human rights of lesbian, gay, bisexual and transgender persons against hostility and aggression to which they may be exposed, including when allegedly committed by state agents, in order to enable them to freely carry out their activities in accordance with the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities.

105. Civil society organisations and ECRI¹¹⁵ have reported multiple instances of violence and hate speech against human rights defenders working to protect the rights of LGBTI people since the 2019 Review. The Human Rights Commissioner commented in 2021¹¹⁶ on the increasing hostility towards LGBTI Human Rights Defenders in a number of Council of Europe member States including from State representatives. However, legal frameworks for their protection remain underdeveloped with very few targeted measures implemented by member States.

106. As reported in 2019, most member States consider that their general criminal, civil, and administrative laws apply to LGBTI human rights defenders, negating the need for specific protections. A few member States provide emergency helplines, awareness-raising campaigns, or funding for LGBTI civil society organisations and individuals, though these often are not designed to respond the specific needs of human rights defenders.

Spain: Since July 2023, human rights defenders can avail themselves of the dedicated 028 Hotline set up to support victims of SOGIESC based hate crimes and discrimination. Calls are answered in Spanish, Catalan, Galician, Basque, English and French.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 12:

Member states should ensure that non-governmental organisations defending the human rights of lesbian, gay, bisexual and transgender persons are appropriately consulted on the adoption and implementation of measures that may have an impact on the human rights of these persons.

107. The ability of LGBTI civil society organisations to interact with all levels of government in most member States reported above is to some extent reflected in their involvement with policy and legislative development. Thirty-one (31)¹¹⁷ member States, one more than reported in the 2019 Review, undertake some form of

115. See for instance ECRI's: Fifth report on Georgia - <https://hudoc.ecri.coe.int/?i=GEO-CbC-VI-2023-19-ENG>, Fifth report on Armenia - <https://hudoc.ecri.coe.int/?i=ARM-CbC-VI-2023-17-ENG>.

116. <https://rm.coe.int/human-rights-of-lgbti-people-in-europe-current-threats-to-equal-rights/1680a4be0e>.

117. Andorra, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Serbia, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

consultation with these organisations in the adoption and implementation of measures that affect the rights of LGBTI persons.

108. However, among these 31 member States, only 14¹¹⁸ ensure that these consultations are undertaken through a formal mechanism. Such a mechanism may consist of a specific consultative group on LGBTI issues attached to a ministerial body, for instance in Czech Republic, Malta and Spain, or LGBTI organisations being represented in a larger group dealing with non-discrimination and equality, such as in Greece, North Macedonia and Portugal.

109. In several member States, the development of an LGBTI Strategy has been a catalyst for dialogue with LGBTI civil society through increased consultations with them during the drafting of such policy initiatives.

110. Where a permanent, formal consultation body is not constituted, appropriate consultation may be carried out on an *ad hoc* basis. Some member States carry out consultation through other, less formalised channels where active dialogue exists between the Government and LGBTI organisations, such as in Belgium, Cyprus, Denmark, Finland, Norway, Switzerland, and the United Kingdom.

111. Formal mechanisms and informal approaches are not mutually exclusive, however the reliance solely on informal channels assumes a significant level of trust between authorities and LGBTI civil society and are more likely to be detrimentally affected by a change in government. Additionally, informal channels can be less transparent and might not include all groups working on the human rights and equality of LGBTI persons.

Sweden: When preparing Government business, civil society representatives shall be given an opportunity to express their opinion as necessary (Chapter 7, Article 2 of the Instrument of Government 1974:152). Focused discussions have been held on the action plans for equal rights and opportunities for LGBTIQ people and the action plans to combat racism and hate crime.

118. Czech Republic, Finland, France, Germany, Italy, Liechtenstein, Luxembourg, Malta, Montenegro, Portugal, Serbia, Spain, Sweden, Ukraine.

Thematic Chapter III

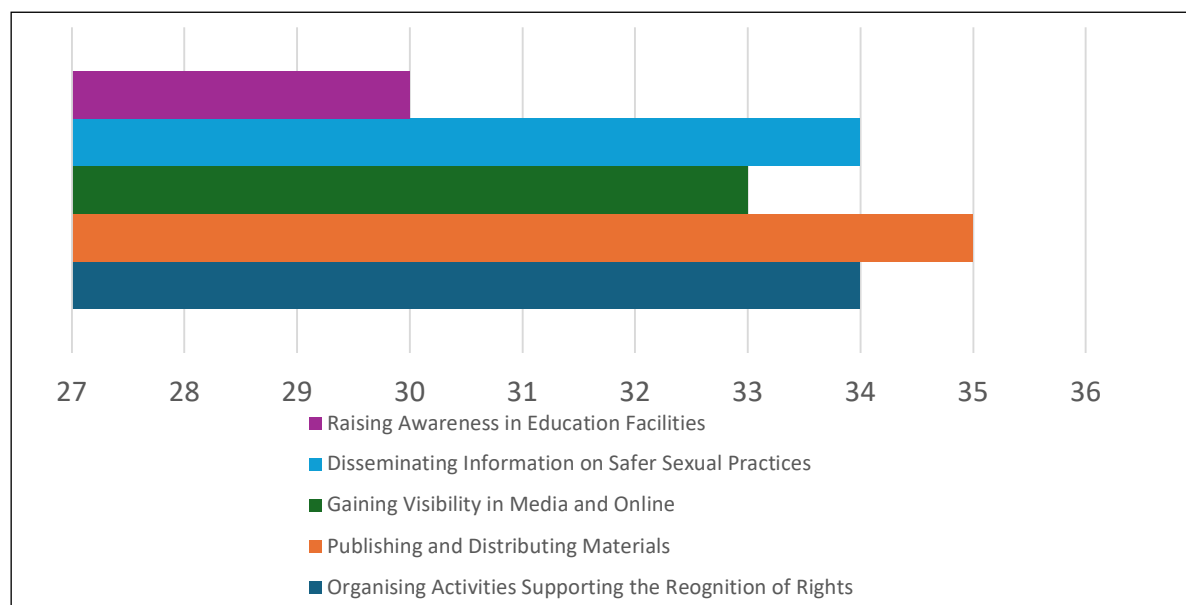
Freedom of Expression and Peaceful Assembly

Annex to the Recommendation CM/Rec(2010)5 Paragraph 13:

Member states should take appropriate measures to ensure, in accordance with Article 10 of the Convention, that the right to freedom of expression can be effectively enjoyed, without discrimination on grounds of sexual orientation or gender identity, including with respect to the freedom to receive and impart information on subjects dealing with sexual orientation or gender identity.

112. A majority of member States have measures to secure the freedom of receiving and imparting information without discrimination on grounds of sexual orientation or gender identity through the following means: organising activities supporting the recognition of the human rights of LGBTI persons (34),¹¹⁹ publishing and distributing materials raising awareness on those rights (35),¹²⁰ gaining visibility in media and online (33),¹²¹ disseminating information on safer sexual practices (34)¹²² and raising awareness through educational institutions (30).¹²³

Number of member States with non-discrimination measures across different activities



119. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Portugal, San Marino, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

120. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Portugal, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

121. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Portugal, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

122. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Portugal, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

123. Albania, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, North Macedonia, Norway, Portugal, San Marino, Slovak Republic, Slovenia, Sweden, Switzerland, United Kingdom.

113. Some member States have indicated the key role civil society organisations play in ensuring that information on LGBTI issues is disseminated and discussed in schools. However, civil society has highlighted the increasing difficulty encountered in continuing with the facilitation of such activities due to school administrators' fears of negative reactions towards such initiatives. As further examined in Chapter VI on Education, there have been some positive efforts by member States to facilitate general awareness raising through the dissemination of information regarding SOGIESC matters in schools.

Ireland: In 2023, the Minister for Children, Equality, Disability, Integration and Youth launched the public awareness campaign 'Looking back, moving forward' with a view to start a conversation about how far Ireland has come in achieving equality for the LGBTI community and to reflect on the work that remains to be done. The initiative involved collaboration with key LGBTI influencers from diverse backgrounds, with a series of video materials created to support the key themes of the campaign.

114. Whereas the majority of member States ensure a non-discriminatory environment for the dissemination of LGBTI-related information, there has been a recent proliferation of legislative proposals and in some cases enacted measures to curtail freedom of expression. These measures, often framed around the protection of minors, seek to prohibit dissemination of LGBTI related information inside and outside of educational facilities. The Venice Commission has issued Opinions on two such laws, and others have been adopted or considered in a few member States.¹²⁴

115. The Court, in *Macaté v. Lithuania*,¹²⁵ ruled that the application of the provisions in the Lithuanian *Law on the Protection of Minors against the Detrimental Effects of Public Information*, which sought to prevent same-sex relationships featuring in school curricula, was in violation of Article 10 of the Convention. In December 2024, the Lithuanian Constitutional Court ruled that this law was unconstitutional.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 14:

Member states should take appropriate measures at national, regional and local levels to ensure that the right to freedom of peaceful assembly, as enshrined in Article 11 of the Convention, can be effectively enjoyed, without discrimination on grounds of sexual orientation or gender identity.

116. LGBTI events, particularly Pride marches, have increasingly taken place across Council of Europe member States. Pride marches have recently been held in almost all member States, including outside capital cities. This trend is enabled by the majority of member States (34¹²⁶ at the national level, 33¹²⁷ at the regional level, and 33¹²⁸ at the local level) that have put in place measures ensuring non-discrimination on the grounds of sexual orientation and gender identity in the exercise of the right to freedom of assembly.

124. See Venice Commission Opinions: CDL- AD(2021)050– Hungary – Opinion on Act LXXIX of 2021 on Taking More Severe Action Against Paedophile Offenders and Amending Certain Acts for the Protection Of Children and CDL-AD(2024)021 – Georgia – Opinion on the draft constitutional law on Protecting Family Values and Minors.

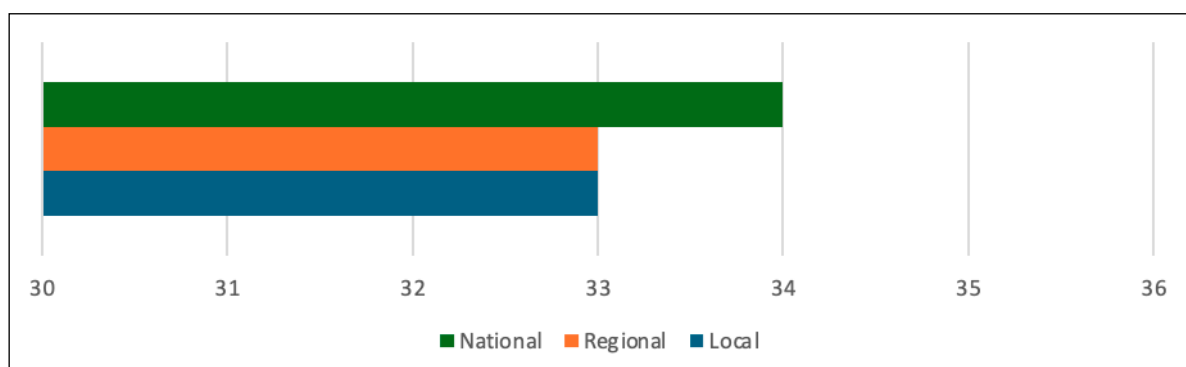
125. *Macaté v. Lithuania* (Application no. 61435/19) 23 January 2023.

126. Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

127. Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

128. Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

Number of member States with measures ensuring non-discrimination of freedom of assembly at different levels



117. Recent positive efforts resulting in mostly peaceful Pride marches, where there have been significant challenges in the past, are evident in member States such as Moldova in 2023¹²⁹ and Bosnia and Herzegovina in 2024.

118. This positive trend is, however, hampered at times by authorities attempting to move Pride marches outside of city centres or imposing additional requirements on organisers. Difficulties in organising these marches has been further exacerbated by an increasingly challenging security context, noted in a few member States and reported on widely by the Commissioner for Human Rights¹³⁰ and PACE,¹³¹ as well as civil society organisations, in some cases accompanied by a spike in anti-LGBTI rhetoric around Pride events. There have been instances of violence and hate speech impacting LGBTI events,¹³² including in Bosnia and Herzegovina, Bulgaria, Georgia, Norway, Poland, Serbia and Türkiye.

119. In Hungary, following the adoption of Act III of 2025 amending Act LV of 2018 on the Right of Assembly on the Protection of Children and Related Acts 1164, Pride marches and other LGBTI events have effectively been banned and participants and organisers can be fined and may face criminal penalties such as imprisonment.¹³³

Annex to the Recommendation CM/Rec(2010)5 Paragraphs 15 and 16:

Member states should ensure that law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of lesbian, gay, bisexual and transgender persons from any attempts to unlawfully disrupt or inhibit the effective enjoyment of their right to freedom of expression and peaceful assembly.

Member states should take appropriate measures to prevent restrictions on the effective enjoyment of the rights to freedom of expression and peaceful assembly resulting from the abuse of legal or administrative provisions, for example on grounds of public health, public morality and public order.

120. Police services play an essential role in ensuring the full enjoyment of the right to freedom of expression and assembly for LGBTI persons. Twenty-eight (28)¹³⁴ member States take appropriate measures to protect participants in peaceful demonstrations advocating for the human rights of LGBTI persons. Specific measures usually involve coordination at different institutional levels and consultations with LGBTI event organisers.

129. As noted by ECRI in its Sixth Report on the Republic of Moldova - <https://hudoc.ecri.coe.int/?i=MDA-CbC-VI-2024-29-ENG>.

130. See the Commission for Human Rights Issues paper CommHR(2024)17 Human rights and gender identity and expression (2024) <https://search.coe.int/archives?i=0900001680aed541>

131. Freedom of expression and assembly of LGBTI people in Europe - <https://pace.coe.int/en/files/33506>.

132. As reported by ECRI, see: Sixth report on Bulgaria, <https://hudoc.ecri.coe.int/?i=BGR-CbC-VI-2022-026-ENG> and Fifth Report on Georgia, <https://hudoc.ecri.coe.int/?i=GEO-CbC-VI-2023-19-ENG>.

133. See letter from the Commissioner for Human Rights: <https://www.coe.int/en/web/commissioner/-/hungary-should-reconsider-the-law-on-assemblies-and-refrain-from-adopting-legislative-proposals-which-threaten-the-human-rights-of-lgbti-people#:~:text=Hungary%20should%20reconsider%20the%20law,people%20%2D%20Commissioner%20for%20Human%20Rights>.

134. Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Slovak Republic.

Eighteen (18)¹³⁵ member States go further and provide specific training modules for police officers to educate and sensitise them in the protection of specific groups, including LGBTI persons.

Austria: The authorities and organizers of LGBTI demonstrations work together to develop an individual plan for each individual demonstration to ensure the greatest possible protection from counter-protestors and hostility. A three-day training sensitising module “A Word of Difference” is mandatory for every police service officer.

121. Where legal and administrative regulations exist to protect the public on health, morality or public order grounds, 19¹³⁶ member States have review mechanisms or other measures to ensure that they are not misused to infringe on the human rights of LGBTI persons or their supporting organisations. The COVID-19 pandemic significantly impacted freedom of assembly, as many member States imposed temporary protective measures on health grounds, for the most part equally across the population, that led to the postponement or cancellation of most public gatherings, including Pride events.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 17:

Public authorities at all levels should be encouraged to publicly condemn, notably in the media, any unlawful interferences with the right of individuals and groups of individuals to exercise their freedom of expression and peaceful assembly, notably when related to the human rights of lesbian, gay, bisexual and transgender persons.

122. Public condemnation of instances of unlawful interference with the right to freedom of expression and assembly have remained constant as compared to the 2019 Review, having occurred in 17¹³⁷ member States. Some member States reported that there was no need for such public condemnation because there had been no such instances of unlawful interference.

123. National human rights institutions (NHRIs), governmental and independent bodies are among key actors taking an active role in such public condemnation. The participation of politicians in Pride events, such as in Belgium, Denmark, North Macedonia, Malta, Moldova, Serbia, and Sweden coupled with concrete supportive action, shows a strong political signal of inclusion.

Slovenia: Instances of violence around the 2023 Ljubljana Pride were condemned by the Prime Minister, the Speaker of the Parliament and the Ombudsperson.

135. Albania, Andorra, Austria, Croatia, Finland, Georgia, Iceland, Ireland, Italy, Latvia, Malta, Montenegro, Norway, Portugal, Romania, Slovenia, Spain, Sweden.

136. Austria, Czech Republic, Finland, Germany, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Romania, Slovenia, Spain, Sweden, United Kingdom.

137. Andorra, Austria, Belgium, Denmark, France, Germany, Iceland, Lithuania, Luxembourg, Malta, North Macedonia, Serbia, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom.

Thematic Chapter IV

Right to Respect for Private and Family Life

Annex to the Recommendation CM/Rec(2010)5 Paragraph 18:

Member states should ensure that any discriminatory legislation criminalising same-sex sexual acts between consenting adults, including any differences with respect to the age of consent for same-sex sexual acts and heterosexual acts, are repealed; they should also take appropriate measures to ensure that criminal law provisions which, because of their wording, may lead to a discriminatory application are either repealed, amended or applied in a manner which is compatible with the principle of non-discrimination

124. All Council of Europe member States have decriminalised same-sex acts between consenting adults. Nevertheless, the criminalisation of LGBTI persons can still exist where it takes the form of, for instance, discriminatory application of criminal laws or the application of criminal law which indiscriminately bans efforts that seek to raise awareness on LGBTI issues.¹³⁸

125. Positively, 44¹³⁹ member States have taken steps to repeal, amend or cease to apply in a manner which is incompatible with the principle of non-discrimination, any criminal law provisions which, because of their wording or scope, may lead to a discriminatory application with respect to sexual orientation. Of these 44 member States, 13¹⁴⁰ have partially implemented such measures. Partial implementation can indicate that there are still some elements where criminal provisions distinguish between same-sex and different-sex acts, by for instance having separate legislative provisions on non-consensual sexual acts between same-sex and different-sex persons which might lead to a different approach to sentencing and victim support, or lower sanctions for same-sex acts or non-vaginal penetration. Similarly, a partial response can indicate a considerably higher penalty for HIV transmission as compared to other venereal diseases which has a disproportionate impact on men who have sex with men and transgender persons.

126. A partial response has also been observed where so called “gay panic” defences, namely where a perpetrator uses the victim’s actual or perceived sexual orientation or gender identity as a reason for their violent act, are reported as valid. Partial responses also include non-discrimination provisions that are not suitably enforced, where, for instance hate crimes against LGBTI persons are not properly investigated.

127. The situation is less clearly positive as regards gender identity. Thirty-nine (39)¹⁴¹ member States have taken some steps, however of these, 16¹⁴² have done so partially, meaning for instance that there are no bans or explicit legislation targeting transgender persons but nor are there anti-discrimination protections and/or there are reports of unchecked discriminatory practices in criminal law matters, for instance by unequal treatment by police services.

128. The criminalisation aspects of gender expression and sex characteristics has been addressed to a significantly lesser extent. Some explicit legislative protections exist in 8¹⁴³ member States as regards gender

138. See Chapter III on Freedom of Expression and Peaceful Assembly.

139. Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

140. Albania, Armenia, Azerbaijan, Georgia, Hungary, Italy, Lithuania, Monaco, Poland, Republic of Moldova, Slovenia, Switzerland, Ukraine.

141. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Republic of Moldova, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

142. Albania, Georgia, Hungary, Italy, Liechtenstein, Lithuania, Montenegro, North Macedonia, Republic of Moldova, San Marino, Slovak Republic, Slovenia, Sweden, Switzerland, Ukraine, United Kingdom.

143. Andorra, Belgium, Croatia, Finland, Iceland, Norway, Spain, United Kingdom.

expression and in 6¹⁴⁴ member States covering sex characteristics. There are partial protections in 13¹⁴⁵ States for gender expression and 16¹⁴⁶ for sex characteristics, meaning that there have been judicial decisions interpreting gender-based protections as including gender identity, gender expression and/or sex characteristics, or some criminal provisions can be used, for instance, to protect intersex persons against non-consensual surgery, but there is no general protection framework.

129. An explicit ban of the reinstatement of discriminatory criminal legislation by installing the principle of non-discrimination, clearly mentioning SOGIESC, in a strategically protective place in the hierarchy of norms can act as a positive safeguard against the introduction of new discriminatory legislation. Malta has implemented this as regards sexual orientation and gender identity through Act No. X of 2014 which amended the constitution.

130. Some member States, such as Austria, Germany, the Netherlands, Spain and the United Kingdom have gone beyond the standards of the Recommendation and have acknowledged the impacts of historic discriminatory criminalisation that have affected parts or all of the LGBTI communities and issued formal pardons or repealed convictions, at times combined with a compensation fund.

The Netherlands: A compensation fund was established in 2020 for transgender persons who were forced to undergo surgery in order to obtain legal gender recognition up until the 2014 legislative reform that removed this requirement.

Austria: The Rehabilitation and Compensation Act saw a budget set aside for 2024 to provide funding for compensation payments for persons who were criminalised under historic discriminatory legislation that targeted mainly gay but also affected bisexual persons and lesbians. The payments include €3,000 for each overturned judgment, €1,500 for each year spent in jail or €500 for each investigation initiated under the relevant criminal paragraphs; this includes incriminations faced by lesbians.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 19:

Member states should ensure that personal data referring to a person's sexual orientation or gender identity are not collected, stored or otherwise used by public institutions including in particular within law enforcement structures, except where this is necessary for the performance of specific, lawful and legitimate purposes; existing records which do not comply with these principles should be destroyed.

131. Almost all member States rely on international conventions¹⁴⁷ or regulations on data protection to ensure public authorities do not collect, store or use personal data on sexual orientation, gender identity or sex characteristics unless it is necessary for specific, lawful and legitimate purposes.

132. The EU's General Data Protection Regulation (GDPR) specifically recognises the sensitive nature, and therefore need for protection, of data regarding sex life and sexual orientation. This Regulation does not explicitly specify the need for protections covering aspects related to gender identity, gender expression or sex characteristics, however, some protections can be derived from interpreting Article 9 in light of Recital 26.

133. The Court of Justice of the European Union (CJEU) has developed the GDPR's application in regard to the collection of gender identity data used for commercial purposes. In 2025, in case C-394/23,¹⁴⁸ the CJEU interpreted the GDPR to rule that the collection of an individual's gender identity through their gender-based title, for commercial reasons, did not meet the GDPR's necessity requirements. This ruling, if correctly

144. Andorra, Belgium, Greece, Iceland, Spain, United Kingdom.

145. Austria, Bosnia and Herzegovina, Cyprus, Georgia, Germany, Hungary, Ireland, Malta, Netherlands, Portugal, Slovenia, Sweden, Switzerland.

146. Albania, Austria, Bosnia and Herzegovina, Cyprus, France, Georgia, Germany, Hungary, Ireland, Liechtenstein, Luxembourg, Malta, Montenegro, Netherlands, Portugal, Serbia.

147. See Council of Europe Convention 108 CM/Inf(2018)15-final <https://search.coe.int/cm?i=09000016807c65bf> and the EU's General Data Protection Regulation (GDPR) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

148. <https://curia.europa.eu/juris/document/document.jsf?text=&docid=294110&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=2635031>.

implemented across EU member States will help protect transgender persons from situations where their gender identity does not align with their legal sex or gender on identity documents and protect all persons from unnecessary disclosure.

134. Thirty-nine (39)¹⁴⁹ member States have implemented legally binding rules that ensure data subjects are informed of their rights to access, correct or delete stored data related to some or all of SOGISC characteristics. This is the most consistently implemented element of data protection frameworks. Legal safeguards for the collection of data related to SOGISC by private actors are present in 37¹⁵⁰ member States, which is slightly more than the number of States with such safeguards for public operators, namely 36.¹⁵¹ The deletion of records containing SOGISC related information that do not comply with legally recognised data protection principles is the least consistent aspect, although still required in a majority of 30¹⁵² member States.

Ireland: The 2014 Gender Recognition Act protects the privacy of individuals' gender recognition application records and strictly limits access to a few qualified persons using the registry's system, thereby protecting those persons' gender histories.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 20:

Prior requirements, including changes of a physical nature, for legal recognition of a gender reassignment, should be regularly reviewed in order to remove abusive requirements.

135. In a positive development, 12 member States, namely Belgium, Denmark, Finland, Germany, Iceland, Ireland, Luxembourg, Malta, Norway, Portugal, Spain and Switzerland have gone beyond the Recommendation's standards, taking into consideration recent Court judgments¹⁵³ and ECRI's General Policy Recommendation No.17¹⁵⁴ and have introduced legal gender recognition procedures that are quick, transparent, accessible and based on self-determination. This is an increase of 4 as compared to the 2019 Review with Switzerland implementing a regime based on self-determination as of 2022, Finland and Spain in 2023 and Germany in 2024. The existence of self-determination within a legal gender recognition regime significantly eases procedural aspects and administrative burdens on the applicant.

149. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Republic of Moldova, San Marino, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

150. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, San Marino, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

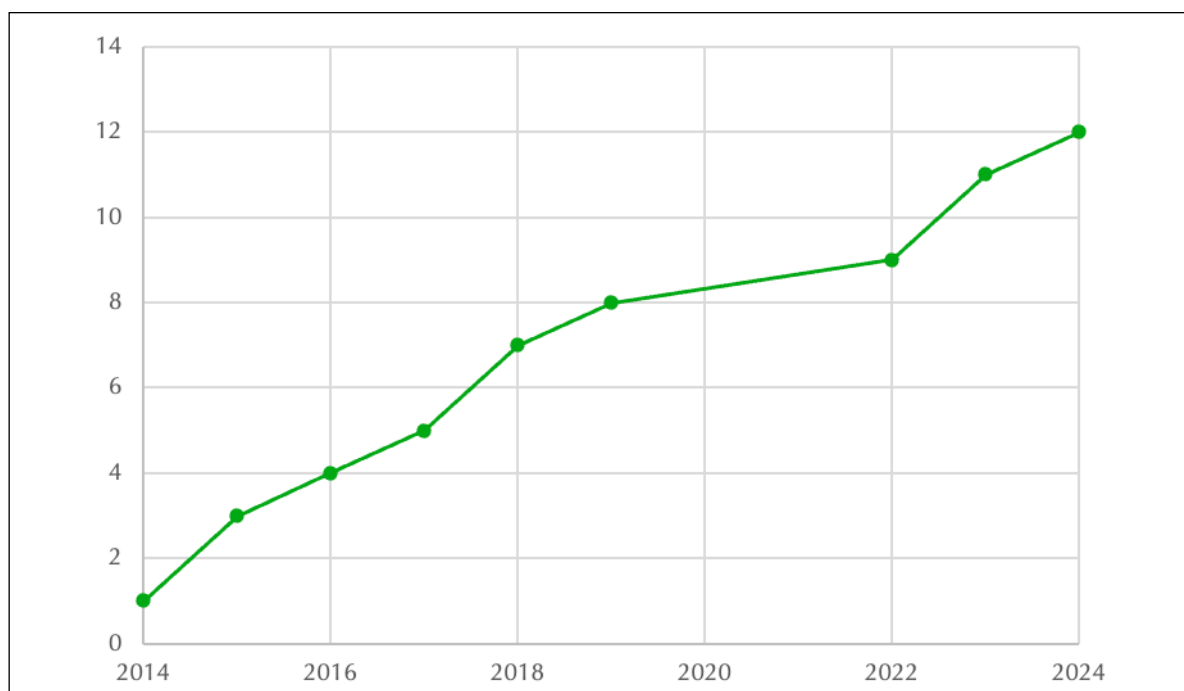
151. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom.

152. Andorra, Austria, Belgium, Bosnia and Herzegovina, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Serbia, Spain, Sweden, Switzerland, United Kingdom.

153. See for instance *X and Y v. Romania*, Application no. 2145/16, 19 January 2021.

154. <https://hudoc.ecri.coe.int/?i=REC-17-2023-30-ENG>.

Number of member States with self-determination based legal gender recognition procedures



Germany: Under the 2024 Act on Self-Determination of the Gender Entry, individuals can go to a civil registry office and have their gender marker and given names changed through a simple declaration based on self-determination and no longer need to provide expert opinions or medical certificates. Applicants can choose between four gender markers, namely male, female, diverse or no gender marker. The change of gender entry at the civil registry office must be registered three months before the declaration is made.

136. In a further 20 member States,¹⁵⁵ there are clear frameworks for legal gender recognition in place, however they do not meet the standard established by the Court of being quick, transparent and accessible as well as the best practice of being based on self-determination, either due to the process being long-winded, reliant on unclear criteria, expensive, or based on an external objective assessment of the person's gender. In 2024 Sweden's Parliament passed legislation, which comes into force on 1 July 2025, that facilitates access to legal gender recognition by, amongst other things, lowering the age limit from 18 to 16 and reducing the burden as regards the required medical certification.

137. Fourteen (14)¹⁵⁶ member States still lack a functioning legal framework for legal gender recognition. This can be due to a general ban on legal gender recognition or is evidenced by a very low number of decisions which are not based on any form of legislation or actionable judicial precedent; in other cases the legislative framework is not used. Where legal gender recognition is not suitably regulated, inconsistency and legal uncertainty in practice, procedure and prior requirements are likely to amount to a violation of Article 8 of the Convention.¹⁵⁷ ECRI, in recent reports¹⁵⁸ has highlighted its concerns where member States did not implement legal frameworks in line with the Court's case-law and called for them to do so.

155. Andorra, Belgium, Croatia, Czech Republic, France, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg, Montenegro, Netherlands, Poland, Serbia, Slovak Republic, Slovenia, Sweden, Türkiye, Ukraine, United Kingdom.

156. Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Estonia, Georgia, Hungary, Liechtenstein, Monaco, North Macedonia, Republic of Moldova, Romania, San Marino.

157. See *X and Y v. Romania*, Application no. 2145/16, 19 January 2021.

158. See for instance ECRI's: Sixth Report on the Republic of Moldova - <https://hudoc.ecri.coe.int/?i=MDA-CbC-VI-2024-29-ENG>, Sixth Report on Lithuania - <https://hudoc.ecri.coe.int/?i=LTU-CbC-VI-2024-28-ENG>, Sixth report on Liechtenstein - <https://hudoc.ecri.coe.int/?i=LIE-CbC-VI-2024-01-ENG>, Sixth report on North Macedonia - <https://hudoc.ecri.coe.int/?i=MKD-CbC-VI-2023-28-ENG>, Sixth report on Poland - <https://hudoc.ecri.coe.int/?i=POL-CbC-VI-2023-29-ENG>.

138. In three member States, since the 2019 Review, constitutional court decisions¹⁵⁹ and legislative measures¹⁶⁰ have effectively banned any form of legal gender recognition, severely impacting the human rights of transgender persons in those member States.¹⁶¹ National court decisions on the definition of women in anti-discrimination law, and guidance implementing these rulings, can limit the effects of legal gender recognition for transgender persons.¹⁶²

139. Despite the availability of legal gender recognition application procedures, applicants can still face additional barriers depending on their legal or medical status and age, with residency requirements being the most common. Only four member States, Norway, Portugal, Switzerland and the United Kingdom have procedures which enable access to legal gender recognition regardless of residency status, which includes non-resident nationals and non-legally resident foreign persons residing in a given State. A further 12¹⁶³ member States enable access in some of these situations.

140. Refugees, often in vulnerable situations, and at times fleeing countries because of an oppressive regime which stigmatises transgender persons, are able to access legal gender recognition in only 17 member States.¹⁶⁴ The CJEU in case C-247/23¹⁶⁵ ruled that public registers, including asylum registers, should reflect the gender identity of the individual concerned and that the evidence required to make any change must never include proof of surgical intervention or sterilisation.

141. Some individuals seek legal gender recognition abroad because their own country of origin does not provide such a possibility. Six member States, namely Denmark, Germany, the Netherlands, Norway, Spain and Switzerland have clearly defined procedures which cater to non-nationals in this situation.

142. Where legal gender recognition is not banned, legal or other obstacles to accessing legal gender recognition include where the applicant has a disability which, largely linked to legal capacity, is a barrier in six¹⁶⁶ member States, or the existence of police records which can prevent access in four¹⁶⁷ member States.

143. Eleven (11)¹⁶⁸ member States oblige persons seeking legal gender recognition to divorce, which constitutes a significant barrier, and a negative impact on their enjoyment of their private and family life. While such a requirement might not be specified in law, divorce can be a de facto requirement to obtain legal gender recognition in other additional member States.

144. Detention entirely prevents access to legal gender recognition in 13¹⁶⁹ member States. It is technically possible but materially difficult to obtain in nine¹⁷⁰ and fully accessible from detention in 16¹⁷¹ member States. Such ability to access legal gender recognition in detention further impacts decision making on appropriate housing in a facility that also takes into consideration their gender identity.¹⁷²

145. In a positive move to adhere to Court jurisprudence¹⁷³ and in the light of ECRI General Policy Recommendation 17,¹⁷⁴ 27¹⁷⁵ member States ensure that legal gender recognition is not conditional on surgical or medical treatment entailing irreversible sterilisation against their wishes. Following the decision of the

159. Bulgarian Constitutional Court Cases № 3/2018 and № 6/2021.

160. Hungarian Act XXX 2020 - <https://njt.hu/jogszabaly/2020-30-00-00>, Georgia Law No. 4437-XVIðl-Xðð - <https://matsne.gov.ge/ka/document/view/6283110?publication=0>.

161. See ECRI's Sixth ECRI report on Hungary - <https://hudoc.ecri.coe.int/?i=HUN-Cbc-VI-2023-02-ENG>.

162. See for instance: For Women Scotland Ltd (Appellant) v The Scottish Ministers (Respondent) <https://supremecourt.uk/cases/uksc-2024-0042>.

163. Albania, Austria, Belgium, Bosnia and Herzegovina, Cyprus, Denmark, Iceland, Ireland, Lithuania, Serbia, Slovenia, Spain.

164. Austria, Cyprus, Czech Republic, Estonia, Finland, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, Norway, Slovenia, Spain, Sweden, Switzerland.

165. <https://curia.europa.eu/juris/document/document.jsf?text=&docid=296550&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=814625>.

166. Armenia, Azerbaijan, Lithuania, Montenegro, Slovak Republic, Türkiye.

167. Armenia, Azerbaijan, Montenegro, Türkiye.

168. Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Lithuania, Montenegro, Poland, Republic of Moldova, Romania, Slovak Republic, Türkiye.

169. Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Cyprus, Czech Republic, Georgia, Greece, Hungary, Montenegro, Serbia, Türkiye.

170. Albania, Bosnia and Herzegovina, Estonia, Italy, Latvia, Luxembourg, Romania, Slovenia, United Kingdom.

171. Croatia, Denmark, France, Germany, Iceland, Ireland, Lithuania, Malta, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Spain, Sweden, Switzerland.

172. See Chapter on Right to Life, Security and Protection.

173. See for example *A.P., Nicot and Garçon v. France*, Applications nos. 79885/12, 52471/13 and 52596/13, 6 April 2017.

174. <https://rm.coe.int/general-policy-recommendation-no-17-on-preventing-and-combating-intole/1680acb66f>.

175. Andorra, Austria, Belgium, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Republic of Moldova, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

European Committee of Social Rights ([Collective Complaint No. 117/2015](#)),¹⁷⁶ in 2024 the Czech Constitutional Court ruled against the requirement of sterilisation for legal gender recognition. In a further three¹⁷⁷ member States such medical treatment is somewhat linked to the process but not necessarily a deciding factor. Despite the de-psychopathologisation of gender identity in ICD-11 introduced in 2019, of those member States that provide access to legal gender recognition, 20¹⁷⁸ still require a psychological assessment or expert statement, and in a further four it can be included in the application process.

146. Seven¹⁷⁹ member States with legal gender recognition procedures require medical treatment entailing irreversible sterilisation and in five¹⁸⁰ where no such official process exists, a granting of legal gender recognition might require proof of such a procedure. Given the lack of clear procedure, a determination on whether sterilisation is required or not is uncertain in a number of other member States.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 21:

Member states should take appropriate measures to guarantee the full legal recognition of a person's gender reassignment in all areas of life, in particular by making possible the change of name and gender in official documents in a quick, transparent and accessible way; member states should also ensure, where appropriate, the corresponding recognition and changes by non-state actors with respect to key documents, such as educational or work certificates.

147. Most member States have defined the legal consequences and implications of legal gender recognition to a sufficient extent, allowing for the reissuance of documents with the modified name and/or gender marker, thereby ensuring legal gender recognition in practical terms. Regarding public institutions, in 18¹⁸¹ member States such reissuance of documents is systematic and in a further 17¹⁸² it is possible but might require additional steps. In 28¹⁸³ member States it is possible to get updated documents from private entities, for instance workplaces or education institutions, however in only 18¹⁸⁴ of these member States have such processes been clearly regulated. Eleven (11)¹⁸⁵ member States have no such framework in place for public authorities and 16¹⁸⁶ member States have not implemented a framework for private entities.

148. Three member States, Germany, Iceland and Malta, have gone beyond the requirements of the Recommendation and have fully implemented a non-binary or third gender marker option. A further three member States, namely Austria, Denmark, and the Netherlands have partially implemented this by limiting availability to intersex persons.

149. Twenty (20)¹⁸⁷ member States have taken steps to allow public institutions, particularly education facilities, to use the preferred pronoun, form of address and/or name of persons who have not yet obtained full legal gender recognition, particular for minors. Six of these member States, namely France, Ireland, Italy, Malta, Portugal and the United Kingdom have implemented clear guidelines and a further 14¹⁸⁸ have experi-

176. [https://hudoc.esc.coe.int/eng#{%22sort%22:%22escpublicationdate%20descending%22,%22escdcidentifier%22:%22cc-117-2015-dmerits-en%22%7D}](https://hudoc.esc.coe.int/eng#{%22sort%22:%22escpublicationdate%20descending%22,%22escdcidentifier%22:%22cc-117-2015-dmerits-en%22%7D).

177. Azerbaijan, Serbia, Slovak Republic.

178. Albania, Austria, Bosnia and Herzegovina, Croatia, Czech Republic, Estonia, Italy, Latvia, Lithuania, Montenegro, Netherlands, Poland, Republic of Moldova, Serbia, Slovak Republic, Slovenia, Sweden, Türkiye, Ukraine, United Kingdom.

179. Bosnia and Herzegovina, Czech Republic, Latvia, Montenegro, Serbia, Slovak Republic, Türkiye.

180. Albania, Armenia, Azerbaijan, Georgia, Liechtenstein.

181. Austria, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, Netherlands, Portugal, Serbia, Spain, United Kingdom.

182. Andorra, Belgium, Bosnia and Herzegovina, Croatia, Czech Republic, Latvia, Lithuania, Montenegro, Norway, Poland, Romania, Slovak Republic, Slovenia, Sweden, Switzerland, Türkiye, Ukraine.

183. Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, Norway, Poland, Romania, Serbia, Slovak Republic, Spain, Sweden, Switzerland, United Kingdom.

184. Belgium, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Lithuania, Malta, Montenegro, Netherlands, Serbia, Spain, United Kingdom.

185. Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Hungary, Liechtenstein, Monaco, North Macedonia, Republic of Moldova, San Marino.

186. Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Georgia, Hungary, Latvia, Liechtenstein, Monaco, North Macedonia, Republic of Moldova, Slovenia, Türkiye, Ukraine.

187. Andorra, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, France, Germany, Ireland, Italy, Luxembourg, Malta, Norway, Poland, Portugal, San Marino, Slovenia, Spain, United Kingdom.

188. Andorra, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Germany, Luxembourg, Norway, Poland, San Marino, Slovenia, Spain.

mental or local initiatives. Such positive action, can, however, be put at risk due to political pressure against the promotion of so called “gender ideology” in schools.¹⁸⁹

France: In 2021 the Ministry of Public Education issued guidelines to help teachers and school staff better understand gender identity and simplify the use of preferred names and pronouns.

Malta: In 2022 the Maltese Government issued *Guidelines on the Recognition of Sex, Sexuality and Gender* for the public sector. These Guidelines advise Government departments and agencies on the collection, use and amendment of name and/or gender information and the use of gendered terminology in individual personal records or when communicating with service users.

Germany: In 2021 the Senator for Children and Education in Bremen issued a guidance document to all schools on the use of preferred names and pronouns. In Saarland, taking into account the 2024 Act on Self-Determination, once the request for civil status change has been initiated, an adjustment of school certificates can take place as soon as the pupil requests it. Additionally, the school administration programme includes the option “diverse” and allows for the individual design of pronouns used, the form of salutation and the name for documents and certificates.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 22:

Member states should take all necessary measures to ensure that, once gender reassignment has been completed and legally recognised in accordance with paragraphs 20 and 21 above, the right of transgender persons to marry a person of the sex opposite to their reassigned sex is effectively guaranteed.

150. Nearly half of the member States (21)¹⁹⁰ do not limit transgender persons’ right to marry. Twelve (12)¹⁹¹ States have some protections, but these are limited, for instance requiring the automatic change of marriage to a registered partnership. In five¹⁹² member States persons who have gone through legal gender recognition cannot get married to a person of the opposite gender, on the basis of the legally recognised gender.

Annex to the Recommendation CM/Rec(2010)5 Paragraphs 23, 24 and 25:

Where national legislation confers rights and obligations on unmarried couples, member states should ensure that it applies in a non-discriminatory way to both same-sex and different-sex couples, including with respect to survivor’s pension benefits and tenancy rights.

Where national legislation recognises registered same-sex partnerships, member states should seek to ensure that their legal status and their rights and obligations are equivalent to those of heterosexual couples in a comparable situation.

Where national legislation does not recognise nor confer rights or obligations on registered same-sex partnerships and unmarried couples, member states are invited to consider the possibility of providing, without discrimination of any kind, including against different sex couples, same-sex couples with legal or other means to address the practical problems related to the social reality in which they live.

189. Italian Parliamentary Resolution 11 September 2024 - <https://aic.camera.it/aic/scheda.html?core=aic&numero=7/00203&ramo=CAMERA&leg=19>.

190. Andorra, Austria, Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Luxembourg, Malta, Netherlands, Norway, Portugal, Slovenia, Spain, Sweden, Switzerland, Ukraine.

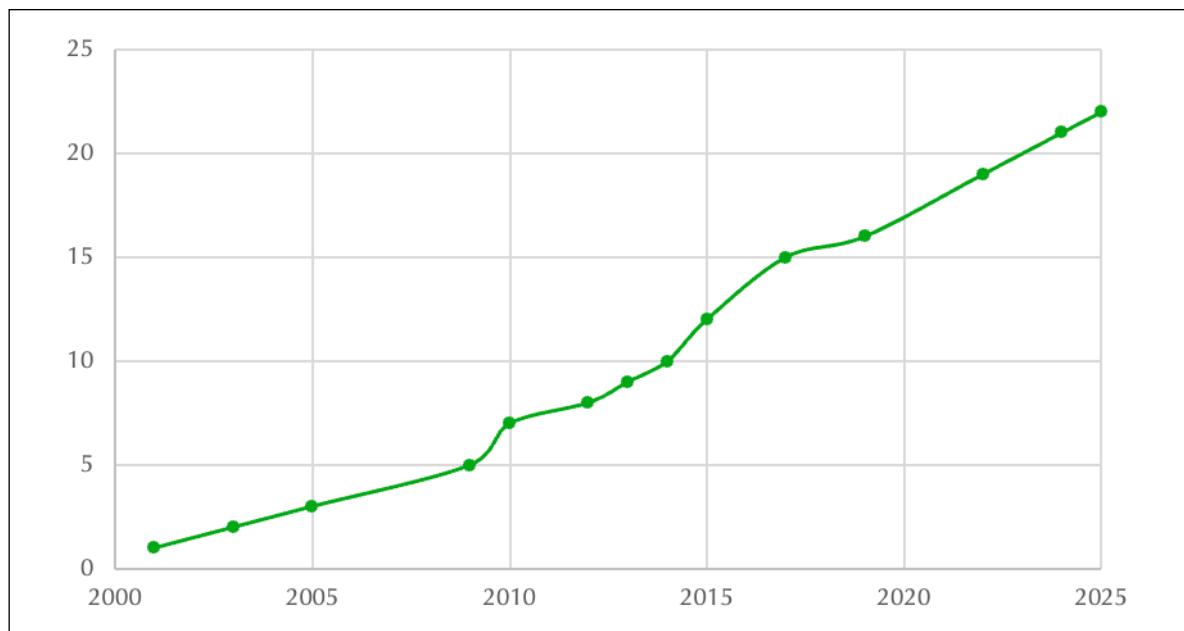
191. Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Georgia, Italy, Latvia, Poland, Romania, Serbia, Türkiye, United Kingdom.

192. Albania, Armenia, Azerbaijan, Italy, Georgia, Hungary.

151. The legal recognition of same-sex partnerships has been a key area of recent progress in implementing the Recommendation, which has been further developed by successive Court judgments.¹⁹³ Many member States have gone beyond these standards by establishing marriage equality.

152. In a marked improvement, 31¹⁹⁴ member States now grant some form of recognition, rights and obligations to same sex couples. Of these, 22¹⁹⁵ member States have marriage equality (13 member States in the 2019 Review), 22¹⁹⁶ member States have registered partnerships (8 in the 2019 Review), and 25¹⁹⁷ member States (16 in the 2019 Review) offer the same protections to same-sex unmarried couples as for different/opposite-sex unmarried couples. In Poland and Ukraine, registered partnerships are currently being considered by their legislatures.

Number of member States with marriage equality



153. Whilst there is a clear trend towards marriage equality, the possibility to establish marriage equality in some member States is prevented by constitutional bans where the definition of marriage specifies this form of union is only between a man and a woman.

Greece: Law 5089/2024 on Equality in Civil Marriage not only enables same-sex couples to marry under the same conditions as different-sex couples, but also addresses a range of equality matters for same sex couples in private and family life such as adoption and social and labour laws, including parental leave and protection against dismissal.

154. This consensus towards providing legal recognition to same-sex couples, as recognised by the Court,¹⁹⁸ is not universal, with 15¹⁹⁹ member States having practically no protections or rights for same-sex couples,

193. Recently for instance in *Fedotova and others v. Russia*, Applications nos. 40792/10, 30538/14 and 43439/14, 17 January 2023.

194. Andorra, Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Luxembourg, Malta, Monaco, Montenegro, Netherlands, Norway, Portugal, San Marino, Slovenia, Spain, Sweden, Switzerland, United Kingdom, Croatia.

195. Andorra, Austria, Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Portugal, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

196. Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, France, Greece, Hungary, Italy, Latvia, Liechtenstein, Luxembourg, Malta, Monaco, Montenegro, Netherlands, Portugal, San Marino, Spain, United Kingdom.

197. Andorra, Belgium, Cyprus, Denmark, Estonia, Finland, France, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, United Kingdom.

198. *Fedotova and others v. Russia*, Applications nos. 40792/10, 30538/14 and 43439/14, 17 January 2023

199. Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Georgia, Lithuania, North Macedonia, Poland, Republic of Moldova, Romania, Serbia, Slovak Republic, Türkiye, Ukraine.

including those where there are extremely limited rights such as visitation rights. The Court,²⁰⁰ but also ECRI²⁰¹ in its country reports, have called upon these member States to establish legal recognition and protections for same sex couples.

155. As regards immigration and the recognition of partners for visa and residence permit applications, 28²⁰² member States recognise same-sex partners on an equal footing to different-sex partners. Five member States recognise same-sex partnerships for these purposes to some extent but not in a consistent manner. EU legislation has had a significant influence, for instance, through implementing legislation such as Directive 2004/38/EC²⁰³ and subsequent rulings by the Court of Justice of the European Union.²⁰⁴

Annex to the Recommendation CM/Rec(2010)5 Paragraphs 26, 27 and 28:

Taking into account that the child's best interests should be the primary consideration in decisions regarding the parental responsibility for, or guardianship of a child, member states should ensure that such decisions are taken without discrimination based on sexual orientation or gender identity.

Taking into account that the child's best interests should be the primary consideration in decisions regarding adoption of a child, member states whose national legislation permits single individuals to adopt children should ensure that the law is applied without discrimination based on sexual orientation or gender identity.

Where national law permits assisted reproductive treatment for single women, member states should seek to ensure access to such treatment without discrimination on grounds of sexual orientation.

156. A slight improvement has been registered concerning decisions on parental responsibility and guardianship with non-discriminatory frameworks in 28²⁰⁵ member States concerning the ground of sexual orientation (25 in the 2019 Review) and 27²⁰⁶ as regards gender identity (24 in the 2019 Review). The legislation of 23²⁰⁷ member States does not discriminate on the ground of gender expression and in 20²⁰⁸ member States concerning sex characteristics.

157. Eighteen (18)²⁰⁹ of the aforementioned 28 member States supplement an absence of legal limitations in regard to sexual orientation with measures to address discrimination, such as through the training of professionals and/or with guidelines. Twelve (12)²¹⁰ of the 27 member States do so as regards gender identity, eight²¹¹ for gender expression and eight²¹² for sex characteristics. Iceland, Ireland, Malta, the Netherlands, Norway, Slovenia and Spain ensure this comprehensive application of non-discrimination in decisions of parental responsibility and adoption on all SOGIESC grounds.

200. *Koilova and Babulkova v. Bulgaria*, Application no. 40209/20, 5 September 2023, *Przybyszewska and Others v. Poland*, Applications nos. 11454/17 and 9 others, 12 December 2023, *Buhuceanu and Others v. Romania*, Applications nos. 20081/19 and 20 others, 23 May 2023, *Maymulakhin and Markiv v. Ukraine*, Application no. 75135/14, 1 June 2023.

201. See for instance ECRI's: Sixth Report on the Republic of Moldova - <https://hudoc.ecri.coe.int/?i=MDA-CbC-VI-2024-29-ENG>, Fourth Report on Serbia - <https://hudoc.ecri.coe.int/?i=SRB-CbC-VI-2024-19-ENG>, Fourth report on Bosnia and Herzegovina - <https://hudoc.ecri.coe.int/?i=BIH-CbC-VI-2024-16-ENG>, Sixth report on North Macedonia - <https://hudoc.ecri.coe.int/?i=MKD-CbC-VI-2023-28-ENG>, Sixth report on Poland - <https://hudoc.ecri.coe.int/?i=POL-CbC-VI-2023-29-ENG>.

202. Andorra, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, Norway, San Marino, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

203. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004L0038&qid=1740129734678>.

204. See for example C-673/16 - *Coman and Others* - ECLI:EU:C:2018:385.

205. Andorra, Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Luxembourg, Malta, Netherlands, North Macedonia, Norway, Portugal, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

206. Andorra, Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Luxembourg, Malta, Netherlands, North Macedonia, Norway, Portugal, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

207. Andorra, Austria, Belgium, Croatia, Cyprus, Denmark, France, Germany, Greece, Latvia, Liechtenstein, Luxembourg, North Macedonia, United Kingdom, Finland, Iceland, Ireland, Malta, Netherlands, Norway, Slovenia, Spain, Sweden.

208. Austria, Belgium, Cyprus, Denmark, France, Germany, Greece, Latvia, Liechtenstein, Luxembourg, North Macedonia, Andorra, Iceland, Ireland, Malta, Netherlands, Norway, Slovenia, Spain, Sweden.

209. Andorra, Austria, Belgium, Denmark, Estonia, Finland, Iceland, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Portugal, Slovenia, Spain, Sweden, United Kingdom.

210. Andorra, Belgium, Denmark, Finland, Iceland, Ireland, Malta, Netherlands, Norway, Portugal, Slovenia, Spain.

211. Finland, Iceland, Ireland, Malta, Netherlands, Norway, Slovenia, Spain.

212. Andorra, Iceland, Ireland, Croatia, Malta, Netherlands, Norway, Slovenia, Spain.

158. Ten (10)²¹³ of the 28 member States mentioned above, whilst having no legal limitations around parental responsibility and guardianship concerning sexual orientation, do not provide proactive measures to combat discriminatory practices. This is also the situation in 15²¹⁴ of the 27 member States as regards gender identity, 14²¹⁵ for gender expression and 11²¹⁶ for sex characteristics.

159. Where member States do not actively promote non-discriminatory decision making by their authorities towards LGBTI persons, especially as regards adoption, this can result in a de facto discriminatory environment where adoption by different-sex parents is considered to be in the best interests of the child, because of an innate prejudice against same sex parents, resulting in a lack of third-party adoptions by same-sex couples.

160. Eighteen (18)²¹⁷ member States reserve parental responsibility and adoption for only different-sex couples.

161. The level of unequal treatment for same-sex couples regarding parenthood is further revealed when examining the number of member States that do not allow same-sex couples to access the range of parenthood solutions which are available for different-sex couples.

162. Eleven (11)²¹⁸ member States do not recognise any parental responsibility, meaning no right to conclude contracts or the ability to make day-to-day decisions for the stepparent within same-sex couples, where the child has two legally recognised biological parents. Twenty-one (21)²¹⁹ member States do not allow the adoption of the child by the stepparent in a same-sex couple where the child has only one biological parent but do allow this for different-sex couples. Where a child had been conceived through in vitro fertilisation, same-sex filiation cannot be recognised either pre-birth or at birth for same-sex couples in 21²²⁰ member States.

163. As regards surrogacy, a same-sex partner of a biological parent of a child born through surrogacy, either abroad or in the member State in question, cannot adopt the child in 17 member States,²²¹ where a different-sex partner in the same situation could. Additionally, in 14²²² member States same-sex partners cannot be recognised as intended parents on birth certificates and identity documents when they enter into a surrogacy agreement.

164. In the majority of member States (25),²²³ parents on a birth certificate are obligatorily designated “father” and “mother”. This can create complications and potential discriminatory situations for same-sex or transgender parents throughout their child’s life. Seven²²⁴ member States systematically allow for the adaptation of parent designation to match the parent’s gender identity and in 11²²⁵ member States it is possible in some cases, or they use dual formulations for different registries.

Denmark: Law Number 227 of 15 February 2022 made a number of simplifications which facilitated parenthood for LGBTI persons. According to its provisions, the act of giving birth does not determine whether the parent is listed as a mother or father on the birth certificate, ensuring that transgender parents can be recognised in their correct gender.

213. Croatia, Cyprus, Czech Republic, France, Germany, Greece, Italy, Latvia, North Macedonia, Switzerland

214. Austria, Croatia, Cyprus, Czech Republic, France, Germany, Greece, Italy, Latvia, Liechtenstein, Luxembourg, North Macedonia, Sweden, Switzerland, United Kingdom.

215. Andorra, Austria, Belgium, Croatia, Cyprus, Denmark, France, Germany, Greece, Latvia, Liechtenstein, Luxembourg, North Macedonia, United Kingdom.

216. Austria, Belgium, Cyprus, Denmark, France, Germany, Greece, Latvia, Liechtenstein, Luxembourg, North Macedonia.

217. Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Georgia, Hungary, Lithuania, Monaco, Montenegro, Poland, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Türkiye, Ukraine.

218. Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Monaco, Poland, Romania, Slovak Republic, Türkiye, Ukraine.

219. Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Cyprus, Georgia, Hungary, Latvia, Lithuania, Monaco, Montenegro, North Macedonia, Poland, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Türkiye, Ukraine.

220. Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Georgia, Hungary, Latvia, Lithuania, Luxembourg, Monaco, Montenegro, North Macedonia, Poland, Republic of Moldova, Romania, Serbia, Türkiye, Ukraine.

221. Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Cyprus, Georgia, Hungary, Montenegro, North Macedonia, Poland, Republic of Moldova, Romania, Serbia, Slovak Republic, Türkiye, Ukraine.

222. Albania, Armenia, Bosnia and Herzegovina, Bulgaria, Cyprus, Georgia, Hungary, Luxembourg, Montenegro, North Macedonia, Republic of Moldova, Romania, Slovak Republic, Ukraine.

223. Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Finland, Georgia, Greece, Hungary, Ireland, Latvia, Lithuania, Monaco, Montenegro, North Macedonia, Poland, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Ukraine.

224. Andorra, Denmark, Iceland, Malta, Portugal, Slovenia, Sweden.

225. Belgium, Estonia, France, Italy, Germany, Luxembourg, Netherlands, Norway, Spain, Switzerland, United Kingdom.

165. This is particularly relevant considering the range of different pathways to parenthood. Of the 32²²⁶ member States where single people have access to medically assisted reproductive treatment, only eight²²⁷ limit access on the basis of a person's sexual orientation, seven²²⁸ regarding their gender identity and six²²⁹ in relation to their sex characteristics. Transgender persons can face added difficulties where they attempt to access reproductive treatment which is not available for their legally recognised gender.

France: The 2021 Bioethics Act allowed female couples and unmarried women to access medically assisted reproduction and have it reimbursed by the health insurance scheme. This development was welcomed by ECRI.²³⁰

Spain: According to Final Disposition No.1 of Law No. 4/2023, the wording on birth certificates in the Civil Code family provisions are gender neutral. Whilst there remains a distinction in pathways to motherhood and fatherhood, this is translated into gender-neutral expressions of gestating and non-gestating parents.

166. The significantly broad range of options to become a parent is not matched by a similarly open approach to legal provisions to recognise diverse family formats, including through explicit bans of such recognition.

226. Albania, Andorra, Armenia, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Latvia, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Republic of Moldova, Serbia, Spain, Sweden, Ukraine, United Kingdom.

227. Andorra, Armenia, Bulgaria, Croatia, Finland, Georgia, Montenegro, Ukraine.

228. Albania, Andorra, Armenia, Azerbaijan, Bulgaria, Finland, Montenegro.

229. Albania, Andorra, Armenia, Azerbaijan, Bulgaria, Greece.

230. See ECRI's Sixth Report on France, <https://hudoc.ecri.coe.int/?i=FRA-CbC-VI-2022-027-ENG>.

Thematic Chapter V

Employment

Annex to the Recommendation CM/Rec(2010)5 Paragraph 29:

Member states should ensure the establishment and implementation of appropriate measures which provide effective protection against discrimination on grounds of sexual orientation or gender identity in employment and occupation in the public as well as in the private sector. These measures should cover conditions for access to employment and promotion, dismissals, pay and other working conditions, including the prevention, combating and punishment of harassment and other forms of victimisation.

167. Sexual orientation remains the most protected ground across member States, with consistently fewer member States including gender identity as a protected characteristic across all areas of employment. Additionally, where such anti-discrimination measures are enacted, they are slightly more prevalent in the public sector as compared to the private sector and significantly less present in self-employment.

168. Measures prohibiting discrimination in public sector employment on the ground of sexual orientation exist in 40²³¹ member States, an increase of six from the 2019 Review. Thirty-three (33)²³² have such measures on the grounds of gender identity, an increase of five. Fourteen (14)²³³ member States prohibit discrimination on the grounds of gender expression and 13²³⁴ on sex characteristics.

Spain: Law 4/2023 prohibits discrimination against LGBTI persons in public employment. It also obliges companies with over 50 workers to have measures and resources in place to achieve real and effective equality for LGBTI people, including an action plan to tackle harassment and violence against LGBTI people. Furthermore, the law establishes measures to promote real and effective equality of transgender persons, including the promotion of employment and the social and labour integration of transgender persons. Some autonomous communities have introduced a percentage of posts reserved to LGBTI persons, such as the autonomous community of Aragon in Spain in its 2018 Transgender law.

169. In the private sector, a majority of member States, namely 38,²³⁵ prohibit discrimination on the grounds of sexual orientation, up from 32 in the 2019 Review and 32²³⁶ member States do so on the grounds of gender identity, an increase of five. Fourteen (14)²³⁷ member States have non-discrimination provisions on the grounds of gender expression and 12²³⁸ covering sex characteristics.

231. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

232. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Iceland, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

233. Andorra, Belgium, Croatia, Denmark, Finland, Georgia, Greece, Iceland, Malta, Netherlands, Norway, Slovenia, Spain, Sweden.

234. Albania, Belgium, Bosnia and Herzegovina, Denmark, Finland, Greece, Iceland, Malta, Montenegro, Netherlands, Serbia, Spain, Sweden.

235. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Poland, Republic of Moldova, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

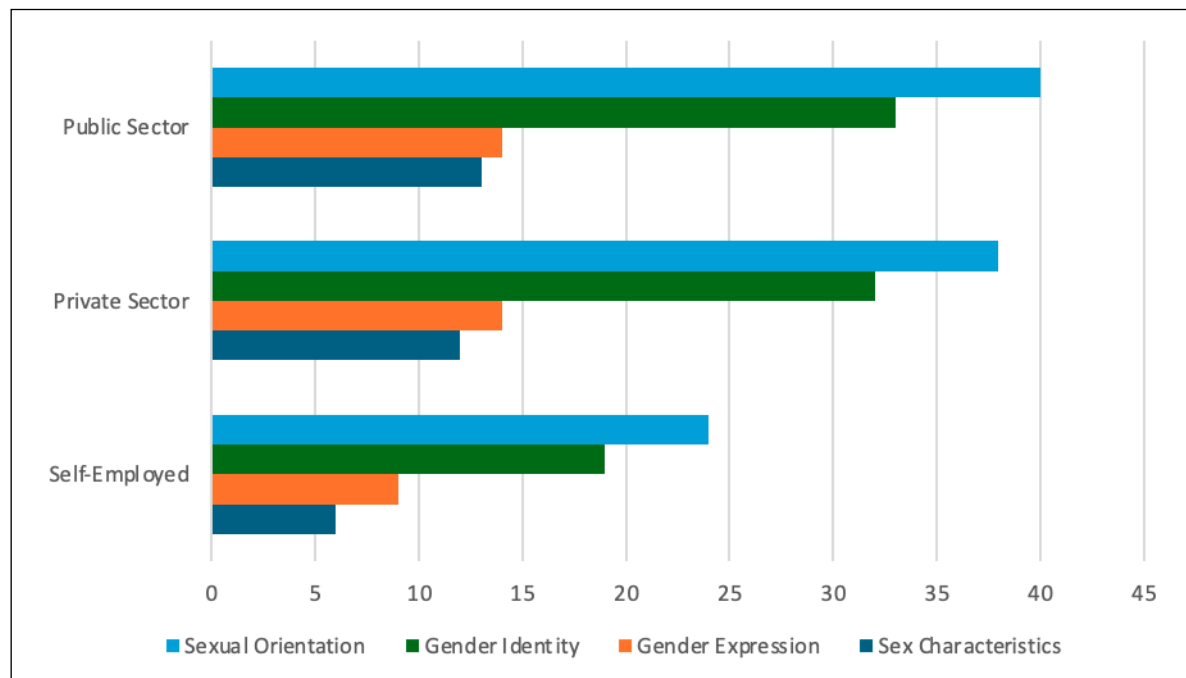
236. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Iceland, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Poland, Republic of Moldova, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

237. Andorra, Belgium, Croatia, Denmark, Finland, Georgia, Greece, Iceland, Malta, Netherlands, Norway, Slovenia, Spain, Sweden.

238. Albania, Belgium, Bosnia and Herzegovina, Denmark, Finland, Greece, Iceland, Malta, Montenegro, Netherlands, Serbia, Sweden.

170. In self-employment, which was not analysed in the 2019 Review, non-discrimination measures encompassing SOGIESC grounds are significantly less present. Only 24²³⁹ member States cover sexual orientation, 19²⁴⁰ specify gender identity and nine²⁴¹ and six²⁴² include gender expression and sex characteristics respectively.

Number of member States with non-discrimination measures in employment



171. Only Belgium, Denmark, Iceland, and Malta have anti-discrimination provisions in employment law which covers all SOGIESC grounds across public and private sectors and self-employment.

172. Beyond non-discrimination legislation, some member States, including Albania, Belgium, Iceland, Ireland, Malta and Spain have adopted national strategies or action plans that address specific issues of LGBTI discrimination in employment. For instance, Belgium's *Federal Action Plan for an LGBTI-friendly Belgium* includes measures such as developing information resources for managers and employees about gender transition and exploring how to help companies to take initiatives that promote inclusive policies that enhance effective integration of LGBTI people.

173. Targeted measures providing specific legal protections throughout the employment cycle help ensure that LGBTI people can fully enjoy equality in employment, as called for by ECRI in its *General Policy Recommendation No. 17*.²⁴³

174. The initial step towards gainful employment is hiring, and it is positive that 39²⁴⁴ member States protect against discrimination on the ground of sexual orientation on access to employment, compared to 32²⁴⁵ on

239. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Iceland, Italy, Latvia, Luxembourg, Malta, Norway, Poland, Slovak Republic, Slovenia, Spain.

240. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Estonia, France, Germany, Iceland, Luxembourg, Malta, Norway, Poland, Slovak Republic, Slovenia, Spain.

241. Andorra, Belgium, Croatia, Denmark, Iceland, Malta, Norway, Slovenia, Spain.

242. Albania, Belgium, Bosnia and Herzegovina, Denmark, Iceland, Malta.

243. General Policy Recommendation No.17 on combating intolerance and discrimination against LGBTI persons - <https://hudoc.ecri.coe.int/?i=REC-17-2023-30-ENG>.

244. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Ukraine, United Kingdom.

245. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Luxembourg, Malta, Montenegro, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.

gender identity, 13²⁴⁶ on gender expression and 11²⁴⁷ on sex characteristics. This ratio of member States providing protections across the SOGIESC grounds is similarly reflected in promotion, dismissals, pay and other working conditions as well as the prevention or punishment of harassment.

Denmark: In 2022, the Municipality of Copenhagen issued guidance for its employees on how to address people without assuming their gender identity or sexual orientation in an effort to improve working conditions for LGBT employees.

175. A few member States have taken specific positive steps on access to employment. For instance, Ukraine's 2023 Law on Advertising banned any demands in job advertisements that relate to sexual orientation as well as other grounds. Iceland's LGBTI Action Programme (2022-2025) sets out that the Ministry of Social Affairs and Labour would conduct a survey on the attitude and knowledge of employers about LGBTI persons' access to the labour market and would establish a working group to carry out a comprehensive study on how to ensure access for transgender people to gendered facilities at work.

176. Regarding dismissals, the Court has ruled that employers cannot dismiss employees on the sole basis of their public displays of intimate affection with their same-sex partner, holding that this would be a disproportionate violation of that person's right to private and family life and discriminatory because of it being due to their sexual orientation.²⁴⁸

177. Specific measures and judicial decisions have addressed the challenges parts of the LGBTI communities face, particularly transgender persons. In 2021, a Ministerial Decision in Greece added transgender people to the government employment agency's list of vulnerable groups, allowing them to apply for work assistance. Importantly, transgender people can self-identify in their application and do not need to have changed their legal gender. In Iceland, a ruling of the Icelandic Supreme Court in 2023 established that transgender people are entitled to sick leave for transition-related surgery.

178. National courts in some member States, when interpreting existing non-discrimination measures have clarified how existing provisions protect LGBTI persons in cases of employment discrimination. In 2020, an employment tribunal in the United Kingdom affirmed that non-binary people are also protected under the Equality Act. Türkiye's Supreme Court ruled in 2021 that firing a transgender doctor for "undermining morals" was unlawful and demanded their reinstatement. Poland's Supreme Court affirmed in 2022 that the Labour Code protects transgender people from discrimination in employment.

179. Certain groups within the LGBTI population are particularly vulnerable in the employment sector due to intersecting discrimination. However, only a very small number of member States have implemented legal protections, coupled with additional practical measures, policies, or programmes to support these cohorts. Including member States that have implemented partial measures, and with variations on the SOGIESC grounds covered, 15²⁴⁹ member States introduced measures that consider the heightened vulnerability of LBT women and 15²⁵⁰ regarding LGBTI persons of ethnic minority backgrounds, including Roma persons and 15²⁵¹ concerning LGBTI persons with disabilities. Fourteen (14)²⁵² member States have taken some form of measure considering LGBTI persons from religious minorities and 13²⁵³ regarding LGBTI persons exposed to discrimination also based on their skin colour. Only Belgium has partial measures in place for LGBTI sex workers. No member State has measures in place that target LGBTI migrants, including asylum seekers and refugees who are particularly at risk of poverty and exploitation in unofficial work situations.

246. Andorra, Belgium, Bosnia and Herzegovina, Croatia, Denmark, Finland, France, Germany, Greece, Iceland, Luxembourg, Malta, Netherlands.

247. Albania, Belgium, Bosnia and Herzegovina, Denmark, Finland, Greece, Iceland, Malta, Montenegro, Netherlands, Serbia.

248. See: *A.K v Russia*, Application no. 49014/16, 7 May 2024.

249. Albania, Andorra, Austria, Bulgaria, Croatia, France, Ireland, Iceland, North Macedonia, Norway, Poland, Romania, Serbia, Slovenia, Spain.

250. Albania, Andorra, Austria, Bulgaria, Croatia, Iceland, Ireland, North Macedonia, Norway, Poland, Romania, Serbia, Slovenia, Spain, Sweden.

251. Albania, Andorra, Austria, Bulgaria, Croatia, Iceland, Ireland, North Macedonia, Norway, Poland, Romania, Serbia, Slovenia, Spain, Sweden.

252. Albania, Andorra, Austria, Bulgaria, Croatia, Iceland, Ireland, North Macedonia, Norway, Poland, Serbia, Slovenia, Spain, Sweden.

253. Albania, Andorra, Austria, Bulgaria, Croatia, Ireland, North Macedonia, Norway, Poland, Romania, Serbia, Slovenia, Spain.

Belgium: A new law was adopted in 2023 that granted labour rights to sex workers, including regulations on working hours and payment which will particularly support transgender persons as a highly represented group among sex workers.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 30:

Particular attention should be paid to providing effective protection of the right to privacy of transgender individuals in the context of employment, in particular regarding employment applications, to avoid any irrelevant disclosure of their gender history or their former name to the employer and other employees.

180. There has been a positive trend of member States adopting measures to protect the privacy of transgender persons in the context of employment, particularly regarding the disclosure of their gender history and former name. Eight²⁵⁴ member States have comprehensive measures and a further 20²⁵⁵ have partial measures, an overall increase of six compared to the 2019 Review.

181. For the most part, this positive trend is due to the implementation of the EU's General Data Protection Regulations, which apply in all EU member States and in almost all concerned member States accounted for at least partial protection. In some member States, such as Malta and the United Kingdom, legislation which specifically addresses exposure of someone's gender history without their permission ensures clearer protections for transgender persons.

Albania: The 2021-2027 National Action Plan for LGBTI persons sets out that "the personal data of LGBTI+ people must be kept confidential and protected and processed according to the law in force on the protection of personal data".

254. Belgium, Cyprus, Greece, Italy, Luxembourg, Malta, Netherlands, United Kingdom.

255. Andorra, Austria, Bulgaria, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Iceland, Ireland, Latvia, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden.

Thematic Chapter VI

Education

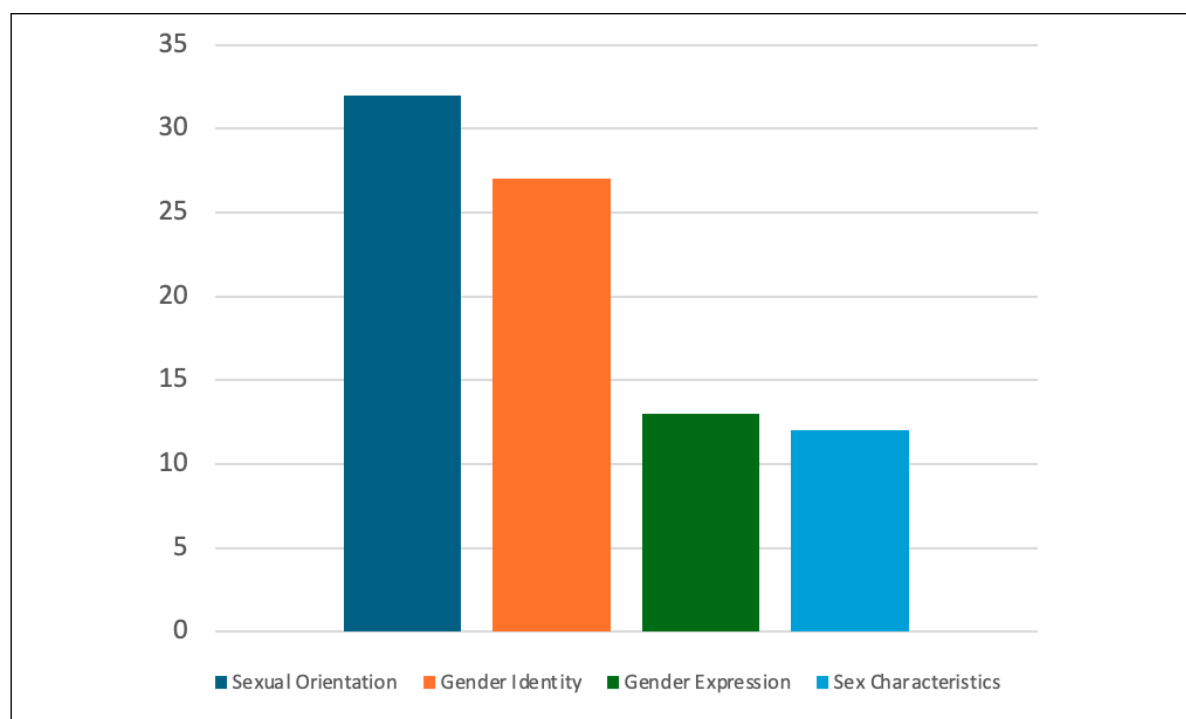
Annex to the Recommendation CM/Rec(2010)5 Paragraph 31:

Taking into due account the over-riding interests of the child, member states should take appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; this includes, in particular, safeguarding the right of children and youth to education in a safe environment, free from violence, bullying, social exclusion or other forms of discriminatory and degrading treatment related to sexual orientation or gender identity.

182. Progress has stalled since the 2019 Review on introducing measures to combat discrimination on the grounds of sexual orientation and gender identity in the field of education. Nonetheless, some member States have proactively included gender expression and sex characteristics in their national infrastructures to combat discrimination in education.

183. Thirty-two (32)²⁵⁶ member States have appropriate legislative and other measures in place to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation. Twenty-seven (27)²⁵⁷ member States prohibit discrimination on grounds of gender identity in education, one more than reported in the previous Review. Some member States have implemented protections based on gender expression and sex characteristics, with 13²⁵⁸ and 12²⁵⁹ member States doing so, respectively.

Number of member States with non-discrimination measures in education



256. Albania, Andorra, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Hungary, Iceland, Ireland, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Republic of Moldova, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

257. Albania, Andorra, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Finland, France, Georgia, Iceland, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Republic of Moldova, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

258. Andorra, Belgium, Croatia, Denmark, Finland, Georgia, Iceland, Malta, Netherlands, Norway, Portugal, Slovenia, Spain, Sweden.

259. Albania, Belgium, Bosnia and Herzegovina, Denmark, Finland, Iceland, Malta, Montenegro, Netherlands, Portugal, Serbia, Spain.

184. The scope of legal protection from discrimination has been extended in some member States. The 2021 amendments to the anti-discrimination law in Montenegro extended coverage in education to gender, gender reassignment, gender identity, sexual orientation and sex characteristics. In Denmark, similar reforms in 2021 extended anti-discrimination protections beyond sexual orientation to include gender identity, gender expression and sex characteristics, as well as to cover education.

185. Some member States and/or regional authorities, including Belgium, France, Ireland, Luxembourg, Malta, Norway and Sweden, have set out targeted and concrete measures in education through strategies or action plans. For instance, Norway's Action Plan on Gender and Sexual Diversity (2023–2026) sets out plans to improve sex education that includes LGBTI issues. ECRI noted France's efforts to improve inclusive education since 2015 through its 2020-2023 National Action Plan to Promote Equal Rights and Combat Hatred and Anti-LGBT+ Discrimination.²⁶⁰

186. Denmark, France, Iceland, the Netherlands, and Sweden have commissioned studies or established plans to conduct studies on the situation of LGBTI children and youth in education which should inform policy making.

Luxembourg: In 2024, the Consultative Commission on Human Rights (CCDH) published a position paper on education which drew a link between the wellbeing and mental health of LGBTI youth and the inclusion of LGBTI-related subjects in the curriculum.

187. Bullying based on LGBTI bias remains a significant concern. In the most extreme forms, there have been reports of LGBTI students who have taken their own lives, reportedly as a result of bullying related to SOGIESC bias.²⁶¹ It is concerning that only eight²⁶² member States have specific nationwide measures in place to address anti-LGBTI bullying and discrimination in schools. Where these measures do exist, they often take the form of mandatory teacher training modules or continuous cooperation with civil society, including funding, to undertake this work. A further 21²⁶³ member States have partial implementation of such measures, for instance only in certain regions or on a time limited basis.

188. Anti-Bullying policies inclusive of SOGIESC grounds have also featured in national strategies. One such example is Ireland, which in 2024 introduced the 'Bí Cineálta' ('Be Kind') Procedures to Prevent and Address Bullying Behaviour in Primary and Post-Primary Schools through its Action Plan on Bullying. This policy was heavily informed by the views of children and young people, parents, school staff, and others, and is centred on a child rights-based and partnership approach.

189. A particularly positive measure in Sweden made it mandatory for schools to prevent bullying and create anti-discrimination plans, which must include specific measures to address anti-LGBTI bullying. Furthermore, in 2023 in France, the region of Brittany set up an observatory for the prevention and fight against LGBT+ discrimination in education.

Greece: In 2023, in response to ECRI's 2022 recommendations,²⁶⁴ the Parliament adopted the 'Living in Harmony Together - Breaking the Silence: Regulations for the prevention and response to violence and bullying in schools and other provisions'. This regulation prohibits "insulting the student's sexual orientation, religion and ethnic origin" and sets up mechanisms for addressing bullying and reporting.

190. With the exception of Portugal and Malta, for the most part, member States have not introduced nationwide measures prescribed in law or policy, to support transgender students; this is of particular concern considering their heightened rates of dropping out and mental health issues due to bullying and discrimination.²⁶⁵ Malta has nationwide measures in place concerning the availability of gendered facilities, classes as

260. See ECRI's 6th Report on France - <https://hudoc.ecri.coe.int/?i=FRA-CbC-VI-2022-027-ENG>.

261. See for instance ECRI's 6th Report on France - <https://hudoc.ecri.coe.int/?i=FRA-CbC-VI-2022-027-ENG>.

262. Denmark, France, Ireland, Malta, Norway, Portugal, Slovenia, Sweden.

263. Andorra, Belgium, Croatia, Cyprus, Czech Republic, Finland, Germany, Greece, Iceland, Italy, Liechtenstein, Luxembourg, Monaco, Montenegro, Netherlands, North Macedonia, Poland, Romania, San Marino, Switzerland, United Kingdom.

264. See ECRI's Sixth report on Greece - <https://hudoc.ecri.coe.int/?i=GRC-CbC-VI-2022-028-ENG>.

265. See the Commission for Human Rights Issues paper CommHR(2024)17 Human rights and gender identity and expression (2024) <https://search.coe.int/archives?i=0900001680aed541>.

well as dress codes and forms of address based on self-determined gender identity. Portugal has measures set out in national law and policy concerning respect for the self-determined name and gender marker of pupils and students, including in the form of address, educational documents, and dress codes even if their preference does not match their legal gender, although recently these measures have come under political pressure to be rescinded.²⁶⁶

191. Eleven (11)²⁶⁷ member States have measures that are either implemented only in certain regions or schools or are not mandatory. In Germany, Italy and Switzerland, for instance, individual schools and/or universities have allowed transgender students to use a name that matches their identity. Courts in Ireland and Switzerland have confirmed that teachers must respect transgender student's self-determined names and pronouns. Additionally, the Czech Ministry of Education started cooperating with a transgender rights civil society organisation to draft guidance aimed at fostering an inclusive environment for transgender students.

Malta: The Trans, Gender Variant and Intersex Students in Schools Policy, updated in 2023, sets out that "students shall be permitted to participate in any such activities or conform to any such rule, policy or practice consistent with their gender identity".

Annex to the Recommendation CM/Rec(2010)5 Paragraph 32:

Taking into due account the over-riding interests of the child, appropriate measures should be taken to this effect at all levels to promote mutual tolerance and respect in schools, regardless of sexual orientation or gender identity. This should include providing objective information with respect to sexual orientation and gender identity, for instance in school curricula and educational materials, and providing pupils and students with the necessary information, protection and support to enable them to live in accordance with their sexual orientation and gender identity. Furthermore, member states may design and implement school equality and safety policies and action plans and may ensure access to adequate anti-discrimination training or support and teaching aids. Such measures should take into account the rights of parents regarding education of their children.

192. Over half of member States (28)²⁶⁸ have some form of measure in place creating the possibility for and encouraging educational institutions to include LGBTI-related information or facilitate education on LGBTI rights and issues as part of their curricula. Twelve (12)²⁶⁹ of these member States have such measures nationwide secured in legislation or policy. Another 16 member States have adopted regional laws or other initiatives, exhibit consistent practices in certain schools, regions, or municipalities, or are engaged in ongoing efforts, such as drafting new legislation

193. In some cases, authorities have mandated that schools include LGBTI-related topics in their curricula, such as in Scotland, while others encourage schools to do so. For instance, Denmark's Ministry of Children and Education has provided resources to encourage teachers to cover LGBTI topics in primary, secondary, and vocational schools. The Reykjavik Municipality in Iceland has set up a certification system for schools and institutions where all pupils and staff have attended a course on LGBTI equality. In a locally targeted example, Finland's Helsinki Municipality in 2023, at the behest of the city's residents, contracted a civil society organisation to provide "rainbow workshops" to all students in grades 6 to 9 (13 to 16 year-olds).

United Kingdom: Since 2021 Scotland has embedded LGBT inclusive education across its entire school curriculum. This is coupled with the website, <https://lgbteducation.scot/>, which provides a toolkit of inclusive education resources and e-learning for education staff.

266. Resolutions Nos. 653/XVI/1. (<https://www.parlamento.pt/ActividadeParlamentar/Paginas/DetailIniciativa.aspx?BID=314729>) and 658/XVI/1 (<https://www.parlamento.pt/ActividadeParlamentar/Paginas/DetailIniciativa.aspx?BID=314735>).

267. Belgium, France, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, Portugal, Sweden, Switzerland.

268. Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Serbia, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

269. Denmark, Estonia, Finland, Germany, Iceland, Luxembourg, Malta, Norway, Portugal, Slovenia, Spain, United Kingdom.

194. These positive steps in some member States, have been paralleled by efforts and at times successful legislative initiatives to ban the sharing of information about SOGIESC issues to minors.²⁷⁰ ECRI has called on member States to repeal legislation which prohibits the dissemination to students of materials because they include LGBTI content.²⁷¹

195. Such bans of LGBTI related content in education, whether adopted or merely considered provoke harmful debates and result in the stigmatisation of LGBTI people and especially young LGBTI persons.

196. Measures, including partial measures, which allow for the holding of LGBTI events and access of LGBTI community organisations to schools can be found in 27²⁷² member States, 17²⁷³ of which have nationally binding legislation or policies.

197. Government funding streams for civil society initiatives aimed at creating safer schools, especially when they are available on an ongoing basis, support the presence of LGBTI-related materials and awareness raising in educational facilities. Member States such as Denmark, Iceland, Finland, Malta, the Netherlands, Norway, Sweden and the United Kingdom provide significant continued funding for civil society organisations which enable them to undertake initiatives such as educational workshops for students and teachers on SOGIESC issues and make resources available for schools.

Austria: In 2023, the federal Ministry of Social Affairs allocated over 250,000 euro to Queerfacts, a civil society organisation, to conduct awareness raising workshops in schools.

198. ECRI underlined the need for curricula, including sexuality education, to address LGBTI matters which is sensitive, age-appropriate and easy to understand.²⁷⁴

199. Twenty-three (23)²⁷⁵ member States provide some form of comprehensive sexuality education, but only three²⁷⁶ of these, Cyprus, Germany and Luxembourg, mandate it to be comprehensive of at least some SOGIESC issues. The remaining 20²⁷⁷ member States provide, at least partially, SOGIESC-inclusive comprehensive sexuality education, but this is either implemented at the regional or municipal level, or is subject to limitations, such as allowing schools to cover this subject but not setting minimum hours or mandating specific content.

200. Nationwide obligations for schools to adopt equality and safety policies and action plans that are inclusive of SOGIESC are present in nine²⁷⁸ member States. A further 10²⁷⁹ have partial such measures, meaning that they might not be compulsory, may be limited to certain regions, or may reflect ongoing efforts to establish such policies.

201. The equality and safety of LGBTI students is further supplemented by anti-discrimination training or support in teaching aids, which are nationally implemented in six²⁸⁰ member States, and partially implemented, in most cases limited to certain schools or regions, in a further 19.²⁸¹

202. Training is most effectively implemented when it is mandatory, for instance in Portugal where since 2018 the State has been required to guarantee adequate training for education professionals around gender

270. See Chapter III on Freedom of Expression and Peaceful Assembly.

271. General Policy Recommendation No.17 on combating intolerance and discrimination against LGBTI persons - <https://hudoc.ecri.coe.int/?i=REC-17-2023-30-ENG>.

272. Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Estonia, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Serbia, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

273. Austria, Belgium, Croatia, Denmark, France, Germany, Iceland, Ireland, Malta, Netherlands, Norway, Portugal, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

274. General Policy Recommendation No.17 on combating intolerance and discrimination against LGBTI persons - <https://hudoc.ecri.coe.int/?i=REC-17-2023-30-ENG>.

275. Austria, Belgium, Croatia, Cyprus, Denmark, Estonia, Germany, Greece, Iceland, Ireland, Liechtenstein, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Portugal, San Marino, Slovak Republic, Sweden, Switzerland, United Kingdom.

276. Cyprus, Germany, Luxembourg.

277. Austria, Belgium, Croatia, Denmark, Estonia, Greece, Iceland, Ireland, Liechtenstein, Malta, Montenegro, Netherlands, North Macedonia, Norway, Portugal, San Marino, Slovak Republic, Sweden, Switzerland, United Kingdom.

278. Croatia, Denmark, Finland, Germany, Iceland, Malta, Serbia, Sweden, United Kingdom.

279. Belgium, Cyprus, Czech Republic, Ireland, Italy, Latvia, Luxembourg, Montenegro, Netherlands, Norway.

280. Iceland, Ireland, Norway, Portugal, Slovenia, Sweden.

281. Austria, Belgium, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Italy, Liechtenstein, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Switzerland, United Kingdom.

identity, gender expression and the diversity of sex characteristics of children and young people. States can also provide incentives to undertake such training, such as in Montenegro where teachers receive credits and benefits if they undertake a State accredited training organised by an LGBTI civil society organisation. In Iceland, a similar partnership exists between the University of Iceland and a national civil society organisation to provide education on SOGIESC issues to everyone undergoing teacher training.

Thematic Chapter VII

Health

Annex to the Recommendation CM/Rec(2010)5 Paragraph 33:

Member states should take appropriate legislative and other measures to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; in particular, they should take into account the specific needs of lesbian, gay, bisexual and transgender persons in the development of national health plans including suicide prevention measures, health surveys, medical curricula, training courses and materials, and when monitoring and evaluating the quality of health-care services.

203. Twenty-seven (27)²⁸² member States have legislative provisions regarding the enjoyment of the highest attainable standard of health without discrimination on the ground of sexual orientation, with 20²⁸³ covering the ground of gender identity.

204. This number rises to 31²⁸⁴ for sexual orientation and 28²⁸⁵ for gender identity when including member States with partial measures which are for instance, limited to a regional or local level, such as in Italy, where the Regions of Campania, Umbria and Piemonte have non-discrimination healthcare provisions covering SOGI grounds.

205. Ten (10)²⁸⁶ member States have non-discrimination healthcare legislation in place encompassing gender expression, while six²⁸⁷ include sex characteristics. Only Denmark, Iceland, the Netherlands and Spain cover all SOGIESC grounds.

282. Albania, Andorra, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, France, Georgia, Germany, Hungary, Iceland, Ireland, Lithuania, Luxembourg, Netherlands, North Macedonia, Norway, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom.

283. Albania, Andorra, Bosnia and Herzegovina, Bulgaria, Czech Republic, Denmark, France, Georgia, Germany, Iceland, Luxembourg, Netherlands, North Macedonia, Norway, Republic of Moldova, San Marino, Slovak Republic, Slovenia, Spain, Sweden.

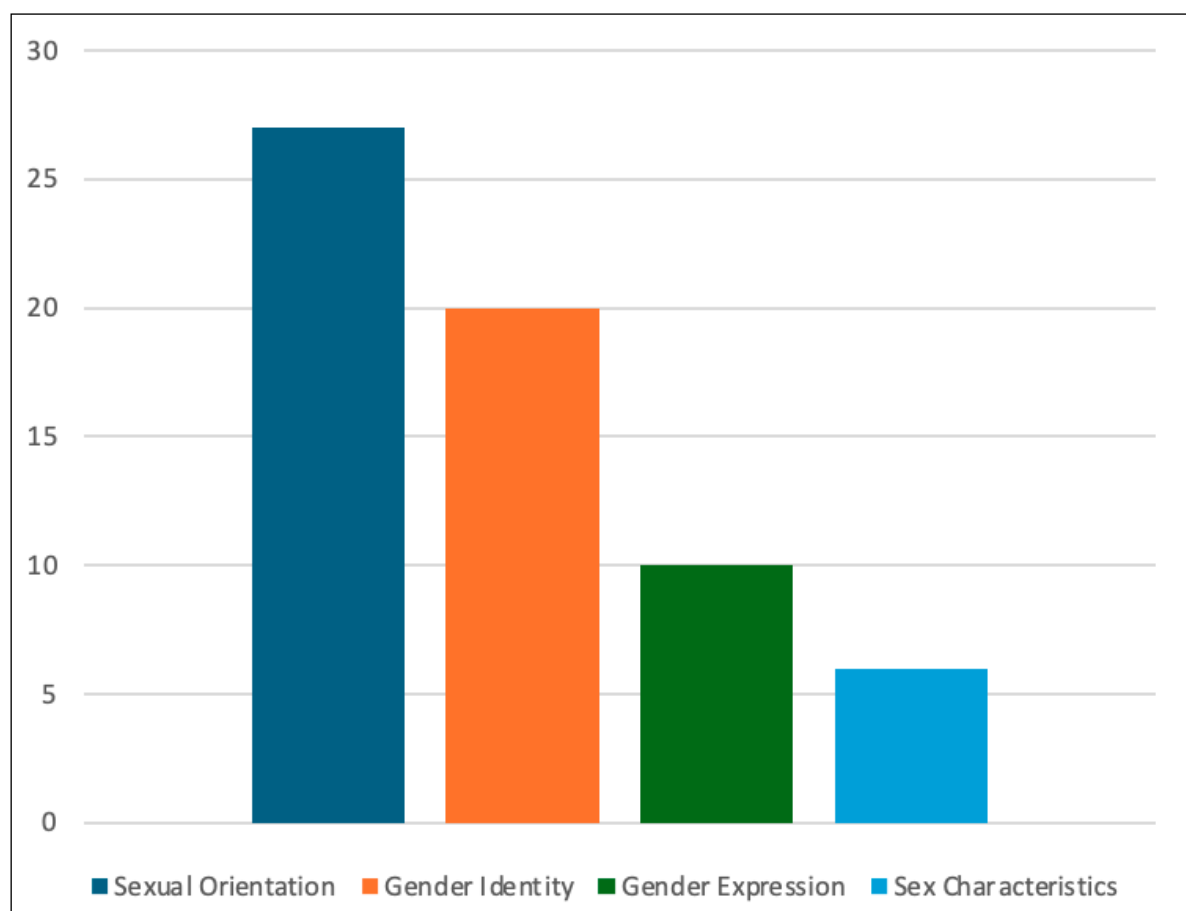
284. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, France, Georgia, Germany, Hungary, Iceland, Ireland, Italy, Lithuania, Luxembourg, Netherlands, North Macedonia, Norway, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

285. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, France, Georgia, Germany, Iceland, Italy, Luxembourg, Netherlands, North Macedonia, Norway, Republic of Moldova, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

286. Andorra, Denmark, Georgia, Iceland, Netherlands, Norway, San Marino, Slovenia, Spain, Sweden.

287. Albania, Bosnia and Herzegovina, Denmark, Iceland, Netherlands, Spain.

Number of member States with non-discrimination measures in health



206. Non-discrimination measures in the field of sexual and reproductive health and rights that cover SOGIESC grounds are significantly less prevalent across member States. Seven²⁸⁸ member States have non-discrimination provisions in this area encompassing sexual orientation and six²⁸⁹ cover gender identity. France and Iceland have nationwide measures ensuring comprehensive access to sexual and reproductive health and rights services covering all SOGIESC grounds. Spain, whilst not explicitly including gender expression, has particularly comprehensive measures.

Spain: Law 4/2023 ensures equal access to assisted human reproduction techniques for lesbian and bisexual women and transgender people with the capacity to conceive and facilitates access for intersex people to techniques for the preservation of gonadal tissue and reproductive cells. The 2023 Law on sexual and reproductive health and pregnancy termination applies to everyone without discrimination based on sexual orientation and gender identity, and its provisions on reproductive rights are applicable to transgender persons with the capacity to gestate.

207. Some member States have put in place specific measures to address the needs of LGBTI communities. In Ireland, the national cervical screening service includes online information about how transgender men and non-binary people can access services. Switzerland's 2023 National Programme - Stop HIV, Hepatitis B and Hepatitis C Virus and Sexually Transmitted Infections - includes transgender people as a key population for the first time. More broadly, Austria's Ministry of Health has published online materials for healthcare workers on sexual health and gender diversity.

208. Regarding reproductive health and rights, since 2020 transgender people in Malta can preserve their gametes prior to undergoing trans-specific healthcare interventions for free and can receive counselling on

288. Belgium, France, Iceland, Portugal, Spain, Switzerland, United Kingdom.

289. France, Iceland, Portugal, Spain, Switzerland, United Kingdom.

fertility preservation. In the United Kingdom, Wales' 2023 LGBTQ+ Action plan sets out that maternity and fertility services must be accessible and straightforward to use for LGBTQ+ people.

209. The provision of comprehensive sex education inclusive of SOGIESC materials, an important policy consideration in relation to LGBTI related healthcare, is analysed in Chapter VI on Education.

210. Member States' national health plans tend to not address the specific needs of LGBTI persons. Of the member States who have adopted suicide prevention plans only Ireland, Luxembourg, the Netherlands, Sweden and the United Kingdom target LGBTI persons, which is particularly concerning considering the prevalence of mental health issues amongst this population, as reported in the Third Thematic Report: Right to the Highest Attainable Standard of Health and Access to Healthcare for LGBTI People in Europe.²⁹⁰ Spain, Sweden and the United Kingdom have consistent practices of conducting national health surveys that consider the perspectives of LGBTI persons. Whilst a number of member States have available materials, only Denmark and the Netherlands mandate SOGIESC issues in medical curriculum and training programmes. Furthermore, Denmark, Portugal and Sweden ensure that a SOGIESC lens is applied in the monitoring and evaluation of the quality of healthcare services.

211. Twenty-seven (27)²⁹¹ member States have not implemented any of the above-mentioned measures, either fully or partially (such as on a regional basis), in their national health plans, which raises the concern of appropriate healthcare accessibility for LGBTI persons in a large number of member States.

Ireland: The Health Service Executive's National Office for Suicide Prevention provides funding to a number of LGBTI organisations offering mental health support and has funded research on the mental health of LGBTI persons in 2016 and 2024.

Portugal: In 2023, a monitoring body was set up to oversee the implementation of the national Health Strategy for LGBTI people and identify gaps in prevention, health promotion, access and provision of care for this group.

212. In some member States, improving LGBTI health policy is included in broader national action plans and strategies. For instance, Albania's National Strategy for Gender Equality (2021-2030) stresses the respect of LGBTI people in its intention to improve comprehensive education modules for health professionals on sexual and reproductive health and rights. Norway's Action Plan: Safety, diversity and openness (2021-2024) sets out to include questions about sexual orientation, gender identity, gender expression and sex characteristics in national surveys, including those conducted by the Ministry of Health and Welfare.

213. Very few member States have adopted anti-discrimination laws and targeted measures that address the heightened vulnerability of certain groups within the LGBTI communities. Some member States have enacted anti-discrimination legislation in healthcare that covers intersectional discrimination, and others have established targeted initiatives that cater to vulnerable LGBTI groups nationwide in a consistent manner; however no single member State has undertaken both.

214. Sixteen (16)²⁹² member States have some form of measure, either legislative or a targeted initiative, catering to LGBTI children and youth, 14²⁹³ for both older LGBTI persons and LGBTI persons of ethnic minority backgrounds including Roma persons, 12²⁹⁴ for LGBTI persons with disabilities, 11²⁹⁵ for both LGBTI persons exposed to discrimination also based on their skin colour and LGBTI persons from religious minorities. Only five²⁹⁶ member States have some kind of measure for LGBTI persons with a migration background, including

²⁹⁰ <https://search.coe.int/archives?i=0912594880261b42>

²⁹¹ Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Estonia, Georgia, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Malta, Monaco, North Macedonia, Poland, Republic of Moldova, Romania, Serbia, Slovak Republic, Türkiye, Ukraine.

²⁹² Albania, Andorra, Austria, Croatia, Germany, Iceland, Ireland, Netherlands, North Macedonia, Norway, Romania, Serbia, Slovenia, Spain, Sweden, United Kingdom.

²⁹³ Albania, Andorra, Austria, Croatia, Iceland, Ireland, Netherlands, North Macedonia, Norway, Romania, Serbia, Slovenia, Spain, Sweden, Germany.

²⁹⁴ Albania, Andorra, Austria, Croatia, Iceland, North Macedonia, Norway, Romania, Serbia, Slovenia, Spain, Sweden.

²⁹⁵ Albania, Andorra, Croatia, Iceland, Netherlands, North Macedonia, Norway, Romania, Serbia, Slovenia, Spain.

²⁹⁶ Denmark, Iceland, Netherlands, Norway, Spain.

asylum seekers and only two²⁹⁷ member States target LGBTI sex workers. A lack of targeted measures for vulnerable groups can significantly impact access to appropriate healthcare which addresses their specific needs.

215. Some member States have included vulnerable groups in national action plans that cover healthcare. For instance, Germany's 2022 National Action Plan for Sexual and Gender Diversity mentions older LGBTI people and envisions diversity-sensitive health promotion in nursing facilities, hospices and hospitals. Belgium's 2022 Federal Action Plan for an LGBTI-friendly Belgium envisions the adoption of a royal decree to provide structural resources for the operation of medical-social centres for sex workers as well as a study on how to best provide quality, anonymous care to highly vulnerable groups such as sex workers and refugees.

216. In the Netherlands, the Amsterdam Public Health Services cooperates with the city's community clinic that provides trans healthcare, mental health and sexual health care services to sex workers, migrants, homeless people, refugees, and asylum seekers. This practice is particularly positive in its direct support for these particularly vulnerable persons.

217. In 33 member States,²⁹⁸ an increase of five as compared to the 2019 Review, patients are able to identify their next of kin regardless of their sexual orientation, enabling individuals in same-sex couples to participate in important health related decisions and moments in their partners' lives. Twenty-four (24)²⁹⁹ member States do not limit naming their next of kin because of their gender identity, 18³⁰⁰ for gender expression and 16³⁰¹ for sex characteristics.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 34:

Appropriate measures should be taken in order to avoid the classification of homosexuality as an illness, in accordance with the standards of the World Health Organisation.

218. Homosexuality has been depathologised in all member States, with the exception of Armenia, through the removal of any reference to sexual orientation in administrative classifications of mental illnesses, according to WHO standards.

219. Denmark, Greece, Iceland, Malta, Norway and Spain have also depathologised transgender identities, in accordance with the standards of the World Health Organisation. For example, since 2022, Norway has used the diagnosis "gender incongruence" in its health care provisions in line with the 11th International Classification of Diseases, which was adopted in 2019 and came into effect on 1st January 2022.³⁰²

Annex to the Recommendation CM/Rec(2010)5 Paragraph 35:

Member states should take appropriate measures to ensure that transgender persons have effective access to appropriate gender reassignment services, including psychological, endocrinological and surgical expertise in the field of transgender health care, without being subject to unreasonable requirements; no person should be subjected to gender reassignment procedures without his or her consent.

220. The number of member States that provide psychological, endocrinological and surgical services for transgender adults without unreasonable requirements, for instance entailing high costs or healthcare facilities difficult to travel to, has slightly increased. Thirty-one (31)³⁰³ member States, three more than reported in the 2019 Review, have, at least partially, met this standard. Partial coverage here means that services may

297. Netherlands, Spain.

298. Andorra, Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, San Marino, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

299. Austria, Belgium, Croatia, Denmark, Estonia, Finland, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, Norway, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

300. Austria, Belgium, Denmark, Estonia, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

301. Austria, Belgium, Denmark, Estonia, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Slovenia, Spain, Sweden.

302. On depathologisation see also Chapter IV on Right to respect for private and family life.

303. Andorra, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Serbia, Slovenia, Spain, Sweden, Türkiye, United Kingdom.

only be available in some regions, that work is still in progress to expand access, that only some aspects of care are covered, or that services remain subject to unreasonable requirements. This slight improvement is offset where member States have put in place limitations on accessing trans-specific healthcare, particularly for minors.³⁰⁴

221. Only Austria, Denmark, Malta,³⁰⁵ Portugal and Spain guarantee availability of all or almost all trans-specific healthcare services across their territories without unreasonable requirements. Austria, Denmark and Malta also ensure services are available to minors.

Norway: Launched in 2024, the Government has now established regional treatment centres for gender affirming care, ensuring availability for adults throughout the country.

222. The number of member States that have explicitly banned non-consensual medical interventions on intersex children has increased incrementally from three, as reported in the 2019 Review, to six, namely Germany, Greece, Iceland, Malta, Portugal and Spain. These bans are not homogenous, for instance Iceland's ban excludes medical procedures on hypospadias and micro-penis. Furthermore, such bans need to be properly implemented in order to ensure intersex children are not subjected to such treatments.³⁰⁶ In Switzerland, the Canton of Geneva has enacted some protections and France introduced regulations that aim at reducing cosmetic surgeries on intersex children.

Greece: In 2022, following recommendations from ECRI³⁰⁷ and the UN Committee on the Rights of the Child, Greece adopted a law prohibiting intersex genital mutilation and other non-consensual medical treatments on children under the age of 15. That same year, the Prime Minister issued a formal apology to victims of these harmful practices.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 36:

Member states should take appropriate legislative and other measures to ensure that any decisions limiting the costs covered by health insurance for gender reassignment procedures should be lawful, objective and proportionate.

223. Effective and consistent support for the costs of gender affirming procedures is assured where private and social insurances include these procedures in law, policy or insurance catalogues. Only Austria, Denmark, Norway, Portugal, Slovenia and Spain guarantee such a certainty of coverage. In Portugal, cost coverage for gender affirming care is guaranteed by national legislation and in Denmark, these services are part of the public health care system, classified as highly specialised treatment.

224. In a further 25³⁰⁸ member States, these costs are partially met, where insurance coverage for gender affirming procedures may be limited by region, include only some services, for instance excluding surgery, or there have been some positive court rulings or similar authoritative opinions but these do not constitute a guaranteed practice for all.

225. Significant strides have been made in the banning of conversion practices, as recommended by ECRI.³⁰⁹ As compared to the 2019 Review where only Malta and some regions of Spain had enacted measures, now eight member States (Belgium, Cyprus, France, Iceland, Malta, Norway, Portugal and Spain) have introduced legislative or other measures which criminalise practices claiming to change one's sexual orientation and/or

304. For instance see: UK's Medicines (Gonadotrophin-Releasing Hormone Analogues) (Restrictions on Private Sales and Supplies) Order 2024 - <https://www.legislation.gov.uk/uksi/2024/1319/made> and Romania Law No. 310 of 23 December 2021 on preventing and combating doping in sport - <https://legislatie.just.ro/Public/DetaliiDocument/249925>.

305. ECRI noted Malta's progress in this area in their Sixth Report on Malta - <https://hudoc.ecri.coe.int/?i=MLT-CbC-VI-2024-17-ENG>.

306. See for instance ECRI's Interim follow-up Conclusions on Greece - 6th monitoring cycle - <https://hudoc.ecri.coe.int/?i=GRC-IFU-VI-2025-03-ENG>.

307. See ECRI's Sixth report on Greece - <https://hudoc.ecri.coe.int/?i=GRC-CbC-VI-2022-028-ENG>.

308. Andorra, Belgium, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, Poland, Serbia, Slovak Republic, Sweden, Ukraine, United Kingdom.

309. ECRI's General Policy Recommendation no. 17 <https://rm.coe.int/general-policy-recommendation-no-17-on-preventing-and-combating-intole/1680acb66f>.

gender identity through spiritual, medical or other means. Partial measures, such as only applying to child victims or where there is ongoing work, are present in a further four³¹⁰ member States.

Portugal: In 2024 the Government adopted a conversion practices ban covering attempts to alter, limit, or repress one's sexual orientation, gender identity and gender expression. The law imposes a prison sentence of up to two years for those violating the ban and conviction can also result in being banned from certain professions.

226. Additional measures such as redress (currently only available in France), counselling and support for victims (provided in Germany and the United Kingdom), as well as sanctions (present in 10³¹¹ member States) all further acknowledge and address the harm caused by conversions practices. However, across member States these additional measures remain inconsistent, leaving gaps in protection and access to support for victims.

Germany: The Federal Centre for Health Education runs a telephone and online advice service for individuals who may be affected by conversion practices including family members.

310. Germany, Greece, Switzerland, United Kingdom.

311. Belgium, Cyprus, France, Germany, Greece, Iceland, Malta, Norway, Portugal, Spain.

Thematic Chapter VIII

Housing

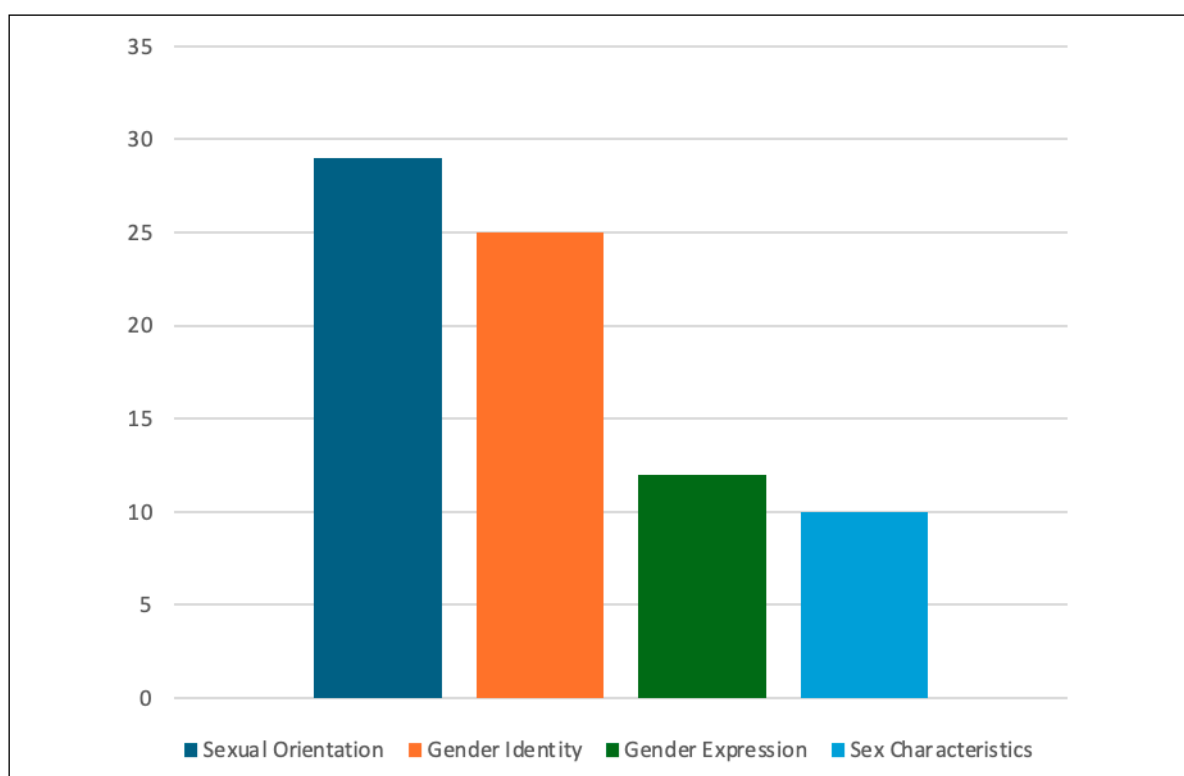
Annex to the Recommendation CM/Rec(2010)5 Paragraph 37:

Measures should be taken to ensure that access to adequate housing can be effectively and equally enjoyed by all persons, without discrimination on grounds of sexual orientation or gender identity; such measures should in particular seek to provide protection against discriminatory evictions, and to guarantee equal rights to acquire and retain ownership of land and other property.

227. Twenty-nine (29)³¹² member States have implemented measures to protect against discrimination based on sexual orientation regarding access to housing and 25³¹³ have implemented such protections concerning gender identity, compared to 26 member States which had measures covering sexual orientation and gender identity as reported in the 2019 Review.

228. Considerably fewer member States have such legal protections which encompass gender expression (12)³¹⁴ and sex characteristics (10).³¹⁵ Belgium, Denmark, Finland, Greece, Iceland, the Netherlands and Spain have protections regarding access to housing covering all SOGIESC grounds.

Number of member States with non-discrimination measures in housing



312. Albania, Andorra, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Lithuania, Luxembourg, Netherlands, North Macedonia, Norway, Republic of Moldova, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom.

313. Albania, Andorra, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Iceland, Luxembourg, Netherlands, North Macedonia, Norway, Republic of Moldova, Serbia, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom.

314. Andorra, Belgium, Croatia, Denmark, Finland, Greece, Iceland, Netherlands, Norway, Slovenia, Spain, Sweden.

315. Albania, Belgium, Bosnia and Herzegovina, Denmark, Finland, Greece, Iceland, Netherlands, Serbia, Spain.

229. Where such legal protections have been enacted nationally, legislation tends to refer to a general prohibition against discrimination in housing rather than addressing specific areas where issues may arise, such as in the rental or purchase of property, the acquisition and retention of ownership and institutional living settings, as well as how the protections would apply.

230. Albania, Serbia and Spain's general anti-discrimination law provisions on housing, which include all or most of the SOGIESC grounds, are particularly promising: they specifically address certain aspects where LGBTI persons might encounter discrimination such as access to housing support programmes, or explain in detail what the protection entails. In some member States, such as Andorra and Slovenia, national Constitutions establish the right to private property and inheritance, and this has been interpreted by national courts to include a prohibition of discrimination based on sexual orientation.

Albania: The 2020 *Law on Measures for Protection from Discrimination* prohibits discrimination in "the sale or letting of residences and other premises" and "accommodation in a place where housing is offered", including on the grounds of sexual orientation, gender identity, and sex characteristics.

231. Protections against discrimination on SOGIESC grounds in the rental or purchase of property are the most frequently reported, where 24³¹⁶ member States have protective measures in place to prevent discrimination based on sexual orientation; 19³¹⁷ based on gender identity; nine³¹⁸ based on gender expression; and seven³¹⁹ based on sex characteristics.

232. In the Slovak Republic, which has yet to implement the latest ICD 11 health protocol which de-psychopathologised trans identities, the equality body published an expert opinion which affirmed that trans people who have a psychiatric diagnosis of their trans identity cannot be excluded from mortgage insurance and other loans.

233. Significantly less member States have adopted protections when it comes to acquiring and retaining ownership of land and other properties, including cases of inheritance, where 17³²⁰ member States have protective measures in place to prevent discrimination based on sexual orientation, 13³²¹ on gender identity, nine³²² on gender expression, and four³²³ on sex characteristics.

234. A very limited number of member States have clearly accounted for SOGIESC based discrimination in housing settings, where LGBTI people live in state-run institutions. Regarding hospitals, nursing homes and detention centres, Czech Republic, Germany, Slovenia, Sweden and the United Kingdom's protections encompass sexual orientation. Czech Republic, Germany and Sweden include gender identity and Sweden also covers gender expression whilst sex characteristics is included in the preparatory work of their Discrimination Act 2008. No member State has such protections in regard to institutional settings which include specifically sex characteristics as a protected ground.

235. Some member States have incorporated institutional settings in their national equality action plans which cover SOGIESC issues. For instance, Norway's *Action Plan: Safety, diversity and openness* (2021-2024) sets out an intention to develop additional knowledge about LGBTI children living in welfare institutions and foster homes and plans to improve the knowledge base of child welfare services regarding young people's gender expression. Malta's third *LGBTIQ Equality Strategy and Action Plan* (2023-2027) envisions awareness raising and outreach programmes to foster LGBTI-inclusion in day and residential centres frequented by older people.

316. Albania, Andorra, Belgium, Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, North Macedonia, Norway, Poland, Republic of Moldova, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom.

317. Albania, Andorra, Belgium, Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Finland, France, Germany, Greece, North Macedonia, Republic of Moldova, Serbia, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom.

318. Andorra, Belgium, Croatia, Denmark, Finland, Greece, Netherlands, Slovenia, Spain.

319. Andorra, Belgium, Bosnia and Herzegovina, Denmark, Finland, Greece, Serbia.

320. Andorra, Austria, Belgium, Croatia, Denmark, France, Germany, Italy, Latvia, North Macedonia, Norway, Romania, San Marino, Slovenia, Spain, Sweden, United Kingdom.

321. Austria, Belgium, Croatia, Denmark, France, Germany, Italy, North Macedonia, Romania, San Marino, Slovenia, Spain, Sweden.

322. Belgium, Croatia, Denmark, Germany, Italy, Slovenia, Spain, Sweden, Switzerland.

323. Belgium, Denmark, Germany, Switzerland.

Germany: Since 2023, supported by funding from the city of Munich, a retirement home for older LGBTI people has been established. In Berlin the municipal housing association WBM and the nonprofit “Rad und Tat GmbH” are building rental apartments as well as a cultural centre and a neighbourhood café for lesbian and queen women. Furthermore, the Berlin LGBTIQ+, Ageing and Care specialist unit builds bridges between the LGBTI* communities and the people, institutions and administrations concerned with ageing and care in Berlin.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 38:

Appropriate attention should be paid to the risks of homelessness faced by lesbian, gay, bisexual and transgender persons, including young persons and children who may be particularly vulnerable to social exclusion, including from their own families; in this respect, the relevant social services should be provided on the basis of an objective assessment of the needs of every individual, without discrimination.

236. Only Denmark has national legislation or policy in place explicitly ensuring that all persons have equal access to social protection and social services regardless of all SOGIESC characteristics, coupled with targeted measures concerning homelessness of LGBTI persons. The United Kingdom has similar legislation, policy and targeted measures which encompass sexual orientation and gender identity and expression.

237. A further 20³²⁴ member States have partially implemented measures in areas which target at least one of the SOGIESC grounds. Partial implementation signifies at least one of the following: the enactment of legislation prohibiting discrimination based on SOGIESC in access to social services or social protection; the existence of a national strategy or policy on homelessness that mentions SOGIESC but without specifying targeted measures; and shelters for LGBTI people that enjoy some form of state support or some form of training for social service providers or staff at homeless shelters on SOGIESC.

238. Positively, national and local homelessness strategies in Hungary, Ireland, Spain, and the United Kingdom, to varying extents, mention and foresee targeted action addressing LGBTI homeless persons. The United Kingdom and the Budapest Local Government’s strategies both mention LGBTI persons and seek to address needs of transgender homeless persons. Spain’s second *National Strategy to Combat Homelessness* (2023-2030) added LGBTI people as a vulnerable group to those listed in the previous strategy. It envisions training professionals on gender and sexual and gender diversity to improve support for women and LGBTI persons experiencing homelessness. Furthermore, it commits to undertaking the first nationwide study on homelessness of LGBTI people as well as designing an online training course for staff working with homeless people on the specificities of LGBTI homeless persons.

Ireland: The *Youth Homelessness Strategy* (2023-2025), aimed at 18-24 year olds, calls for emergency accommodation for LGBTI+ youth; training for service providers; and privacy and safety strategies for young LGBTI+ people using emergency accommodation.

239. Emergency shelters for LGBTI persons, which are predominantly established and run by civil society, have received funding from public authorities or municipalities in several member States, including Albania, France, Italy, Greece, Malta, Poland and Portugal. These initiatives help provide essential support to some of the most vulnerable persons in the LGBTI communities, and in some cases cater to their specific needs. For instance, in Lyon, France, a shelter called “*La Maison de la Diversité*” will open in 2025 and will be tailored to address the needs of older LGBTI persons and older people diagnosed with HIV. In Poland, the Warsaw House Foundation provides shelter for LGBTI youth and provides relevant services for this group, including mental health and education and career support.

324. Albania, Andorra, Belgium, Bulgaria, Croatia, Czech Republic, Germany, Iceland, Ireland, Italy, Malta, Netherlands, Poland, Portugal, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland.

Thematic Chapter IX

Sports

Annex to the Recommendation CM/Rec(2010)5 Paragraphs 39 and 40:

Homophobia, transphobia and discrimination on grounds of sexual orientation or gender identity in sports are, like racism and other forms of discrimination, unacceptable and should be combatted.

Sport activities and facilities should be open to all without discrimination on grounds of sexual orientation or gender identity; in particular, effective measures should be taken to prevent, counteract and punish the use of discriminatory insults with reference to sexual orientation or gender identity during and in connection with sports events.

240. Member States' frameworks to combat discrimination on grounds of SOGIESC tend to not explicitly address sports, or where there are anti-discrimination provisions directly related to sport, these do not explicitly reference SOGIESC grounds. Case law has also generally not integrated these grounds, leading to uncertainty regarding protections in this area in many member States.

241. Ten (10)³²⁵ member States have implemented measures to make sports activities and facilities accessible and welcome to all without discrimination on the grounds of sexual orientation. An additional six³²⁶ member States have implemented such measures partially, meaning not all facilities are covered, measures only cover some regions, or the measures are not secured through legislation and policy. Gender identity and gender expression are slightly less addressed, with 13³²⁷ and 12³²⁸ member States having comprehensive or partial measures, and only five³²⁹ member States have measures that include sex characteristics.

Iceland: In 2021 the Reykjavik City Council adopted guidelines for gyms and pools on how to ensure that they are welcoming to transgender people. The guidelines contain a glossary of terms related to LGBTI persons and provides guidance on how to respond to questions regarding the use of facilities by transgender persons.³³⁰

242. In a positive step to directly address access of LGBT persons in Sports, France updated the *National Sports Code* in 2022 to include the grounds of sexual orientation, gender identity and sex as protected grounds in provisions addressing the need to promote equal access to physical and sporting activities without discrimination. Similarly, this reform extended the Sports Code's provisions on incitement to hatred and discrimination to also include the grounds of sexual orientation, gender identity and sex.

243. Malta's LGBTIQ Action plan for 2023-27 includes a commitment to extend the list of protected characteristics in the *Sports Act* to include SOGIESC grounds.

244. Deterring and penalising discriminatory remarks or actions during sports events can be tackled as part of a State's general anti-hate speech framework.³³¹ Some member States have gone further and addressed the specificities of sports events. Twelve (12)³³² member States have adopted policies or protocols to deter and penalise remarks or actions during sports events motivated by bias based on sexual orientation, seven³³³ have done so as regards gender identity and six³³⁴ concerning gender expression. No member State has

325. Belgium, Denmark, France, Germany, Iceland, Ireland, Netherlands, Norway, Sweden, United Kingdom.

326. Austria, Bulgaria, Croatia, Italy, Malta, Spain.

327. Austria, Belgium, Denmark, France, Germany, Iceland, Ireland, Malta, Netherlands, Norway, Spain, Sweden, United Kingdom.

328. Belgium, Denmark, France, Germany, Iceland, Ireland, Malta, Netherlands, Norway Spain, Sweden, United Kingdom.

329. Germany, Iceland, Malta, Spain, Sweden.

330. ECRI noted this as a promising practice in its Sixth Report on Iceland - <https://hudoc.ecri.coe.int/?i=ISL-CbC-VI-2023-26-ENG>.

331. See Chapter I on Right to Life, Security and Protection.

332. Croatia, Denmark, France, Italy, Malta, Netherlands, Norway, Romania, Slovak Republic, Spain, Sweden, United Kingdom.

333. Croatia, France, Netherlands, Norway, Spain, Sweden, United Kingdom.

334. France, Netherlands, Norway, Spain, Sweden, United Kingdom.

reported taking specific measures to effectively address discriminatory remarks or actions targeting intersex persons during sports events.

245. In 2020, Spain took a positive step in this area by updating its *Law on measures against violence, racism, xenophobia and intolerance in sport* by including the eradication of LGBTQ-phobia in its provisions that prohibit the introduction, display, or production of banners, symbols, or other signs with messages that incite violence against these communities.

246. A limited number of member States have taken action to address the participation of LGBTI persons in school sport, grassroots clubs, and elite sports. The outlook is marginally better when it comes to LGB persons in grassroots sports clubs and elite sport. Participation in school sports has not been significantly addressed by member States. That said, Iceland and some regions in Germany have implemented explicit and targeted initiatives.

Germany: In Hamburg, the updated education plan for teaching sport encourages sensitivity and understanding of the heterogeneity of students. Sports lessons are designed to address gender stereotypes and all those involved in teaching are obliged to equally respect the self-determined gender of students to ensure everyone has the opportunity to develop in sport.

The Netherlands: In 2023, the Dutch Olympic Committee (NOC*NSF) published comprehensive guidelines for inclusion of gender and sex diverse individuals in sport,³³⁵ including elite sport, while particularly focusing on inclusion within grassroots sport. First published in 2021, this guide has also been translated into English to be shared with other countries. It was enhanced by a research document commissioned and published by the University of Rotterdam and supported by a range of initiatives to help sports bodies to implement the guidance across the Netherlands.

247. As good practice, nationally recognised sports committees can incorporate national anti-discrimination laws into their own frameworks to combat discrimination. In 2020, the Slovak Olympic and Sports Committee incorporated *Act no. 365/2004 on Equal Treatment in Certain Areas and Protection Against Discrimination* into their own *Directive on Protection against discrimination, harassment, bullying and abuse*, thereby including sexual orientation as a protected characteristic and strengthening specific protections in the field of sport.

248. The National Action Plans of Bosnia and Herzegovina, Montenegro and the Netherlands include commitments to combat discrimination and hatred against LGBTI persons in sports. France, Iceland and Malta have committed to addressing the needs of transgender persons as regards sports facilities and Malta has also included intersex persons in this action. Germany has acknowledged the need for continued anti-LGBTI discrimination efforts in the field of sport and have included this area in their National LGBTI Action Plan *Queer Leben* (Queer Life) and has proposed measures including introducing “Queerphobia” in the National Committee for Sport and Safety’s focus prevention areas. France and Norway intend to improve their understanding of LGBTI persons in sports by undertaking research on the barriers and acts against them. Research initiatives in Denmark and Ireland have led to concrete policy initiatives and investment to improve the experience of LGBTI persons in sports.

Ireland: Research undertaken in 2021 by the Irish Sport Monitor was then used for the drafting of the 2022 Sport Ireland policy on Diversity and Inclusion in Sport. This policy addresses LGBTI exclusion and commits Sport Ireland to support the sector to understand diversity and inclusion and its benefits at national, local and club level.

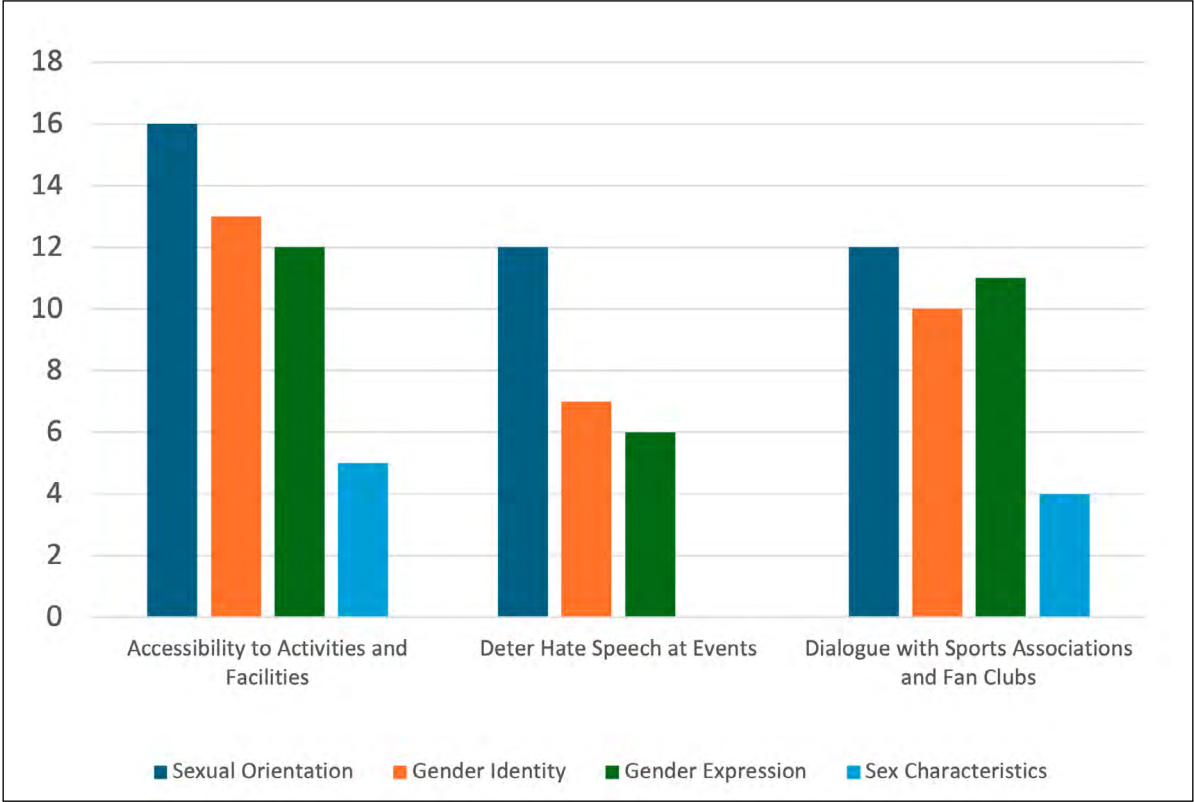
Annex to the Recommendation CM/Rec(2010)5 Paragraph 41:

Member states should encourage dialogue with and support sports associations and fan clubs in developing awareness-raising activities regarding discrimination against lesbian, gay, bisexual and transgender persons in sport and in condemning manifestations of intolerance towards them.

335. <https://cdn.nocnsf.nl/media/ewpk3pl1/guideline-gender-and-sex-in-sport-online-engels.pdf>.

249. Twelve (12)³³⁶ member States have initiated a dialogue with sports associations and fan clubs to tackle discrimination based on sexual orientation, 10³³⁷ have done so regarding gender identity, 11³³⁸ for gender expression and four³³⁹ member States have done so concerning sex characteristics. Germany, the Netherlands, Portugal and Spain have initiated these dialogues to combat discrimination on all SOGIESC grounds.

Number of member States with non-discrimination measures in sport



250. A key lever for member States to encourage sports associations to improve their inclusivity and non-discrimination towards LGBTI persons is through funding. For instance, in Finland, government funding is dependent on sports organisations having, developing and following their equality plans, which should also include discrimination against LGBTI persons.

251. Awareness raising of LGBTI persons in sports has taken place across a few member States, and some recent activities have been framed around significant international sports events to add visibility, such as through the Pride Houses established for the Men’s European Football Championships (Euros) in Germany 2024 and for the 2024 Summer Olympics in Paris.

252. Beyond one-off initiatives to mark an equality date or occasion, some member States including Denmark, Finland, France, Malta, the Netherlands and Norway have organised conferences, roundtables and learning events around LGBTI persons in Sport, which can lead to tangible policy development. A notable example of a single event developing into a regular gathering is in Germany, where a network conference for LGBTI persons was organised by a Berlin sports club in 2018. This has become an annual event known as the *Bundes-Netzwerk-Tagung (BuNT)*, where LGBTI sports clubs across Germany come together to exchange and network with experts from academia, politics and other organised sports.

253. Government funding and collaboration to support projects and campaigns aimed at improving inclusivity of LGBTI persons in sports can also both raise awareness and develop policy. For example, *Out for the Win*, a Flemish civil society organisation in Belgium, received support from federal funds in order to develop a guide to promote the inclusion of gender-diverse and intersex persons in sport as part of its “Out for Inclusion” project.

336. Belgium, Denmark, France, Germany, Ireland, Italy, Netherlands, Norway, Portugal, Spain, Sweden, United Kingdom.
337. Belgium, Denmark, France, Germany, Ireland, Netherlands, Norway, Portugal, Spain, Sweden.
338. Belgium, Denmark, France, Germany, Ireland, Netherlands, Norway, Portugal, Spain, Sweden, United Kingdom.
339. Germany, Netherlands, Portugal, Spain.

254. Another initiative to improve LGBTI inclusivity in sports is the introduction of a quality label for sports organisations, which has been well implemented in France. Fondation FIER, a civil society organisation, with the support of the French Ministry of Sports and the French Olympic Committee, can award an LGBTI inclusivity label to sports organisations following a thorough review of their inclusivity policies. Such initiatives, including, for example, the implementation of ethics Charters, are often developed by civil society organisations and LGBTI sports associations. These can be more widely and coherently implemented with support from government through funding and official recognition.

Thematic Chapter X

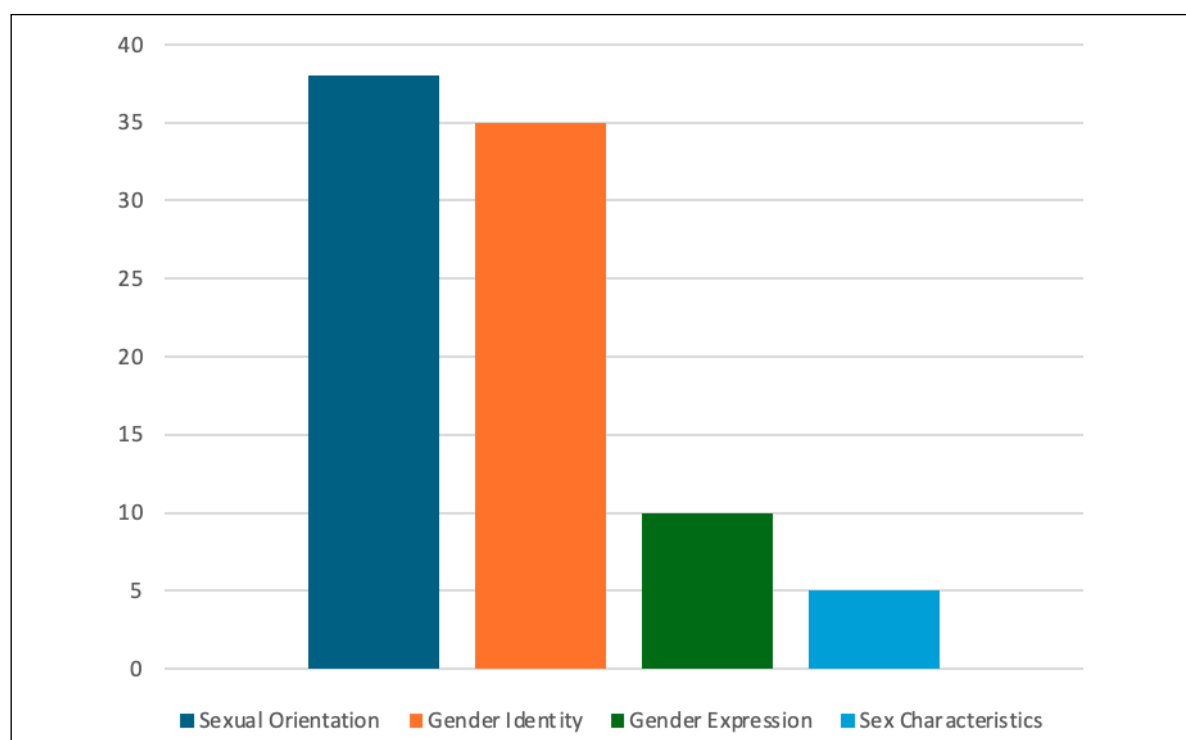
Asylum

Annex to the Recommendation CM/Rec(2010)5 Paragraph 42:

In cases where member states have international obligations in this respect, they should recognise that a well-founded fear of persecution based on sexual orientation or gender identity may be a valid ground for the granting of refugee status and asylum under national law.

255. The 1951 United Nations Convention Relating to the Status of Refugees³⁴⁰ (the Refugee Convention), has been ratified by 44³⁴¹ member States. Although the Refugee Convention does not specify LGBTI-related grounds of persecution, most member States recognise sexual orientation (38),³⁴² and gender identity (35)³⁴³ as grounds on which a well-founded fear of persecution may be a valid ground for granting refugee status and asylum under the umbrella term of a “particular social group”. In 10³⁴⁴ member States, this recognition also applies to gender expression and five³⁴⁵ recognise sex characteristics and other member States can include these within their open lists of grounds.

Number of member States that explicitly recognise SOGIESC grounds in asylum claims



340. <https://www.unhcr.org/media/convention-and-protocol-relating-status-refugees>.

341. Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Türkiye, Ukraine, United Kingdom.

342. Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

343. Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

344. Belgium, Bosnia and Herzegovina, Denmark, Finland, Germany, Malta, Netherlands, Norway, Slovenia, Sweden.

345. Croatia, Denmark, Germany, Malta, Sweden.

256. The EU has gone further to define the meaning of a “particular social group”. Regulation (EU) 2024/1347 of the Parliament and of the Council,³⁴⁶ which is directly applicable to EU member States,³⁴⁷ references sexual orientation under its provisions on reasons for persecution as being included in the concept of membership of a particular social group, depending on the circumstance of the country of origin. It also requires that gender identity and gender expression are given due consideration for determining membership of a particular social group or identifying a characteristic of such a group.

257. In many member States that are not members of the EU, asylum law provisions referencing the “particular social group category” do not specify SOGIESC grounds, but rely on jurisprudence, case-worker guidance, or other sources to ensure that at least some of these grounds are considered.

258. Member States not bound by Regulation (EU) 2024/1347 that explicitly reference sexual orientation and gender identity in their Asylum Law definitions of “particular social group” include Ireland, Montenegro, North Macedonia, and Serbia.

259. Ensuring that SOGIESC grounds are explicitly referenced as coming under the meaning of “particular social group”, whilst not mandatory to enable LGBTI persons to receive protections, helps ensure clarity and longevity of this protection.

260. In some member States, particular attention has been paid to ensuring that the asylum process does not subject applicants to undue procedural burdens to file their applications on SOGIESC grounds. Twenty-five (25)³⁴⁸ member States have prohibited psychological tests to determine an applicant’s sexual orientation and 23³⁴⁹ have done so regarding gender identity. Malta has gone further to also ban such tests related to gender expression, and Cyprus, Malta and Portugal have done so for sex characteristics.

261. Asylum seekers are protected from having to provide private details or evidence, particularly images or films of intimate acts, to prove their sexual orientation or gender identity in 25³⁵⁰ member States. Some of these member States have issued strict guidelines on not requesting such evidence, in many circumstances to implement the CJEU’s judgment in joined cases C-148/13 to C-150/13,³⁵¹ whilst others do not request this as general practice. Additionally, 25³⁵² member States have implemented measures to ensure that the fact that someone can hide their sexual orientation or gender identity does not constitute a ground to deny their asylum claim. Contrary to international standards,³⁵³ this can lead to a rejection of the asylum claim in 17³⁵⁴ member States. Late disclosure of an asylum-seeker’s LGBTI identity after an initial refusal of their application on other grounds is allowed in 24³⁵⁵ member States.

262. Officers handling asylum claims are trained to approach LGBTI matters in a respectful way in 20³⁵⁶ member States. Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Luxembourg, Spain, Sweden, Switzerland and the United Kingdom provide comprehensive mandatory, and in some cases, continuous training. Bosnia and Herzegovina and the Netherlands have committed to enhance the capacity of case officers in the handling of LGBTI related claims. A number of member States have referred to collaboration with the EU Agency for Asylum to train their officials on LGBTI related matters in asylum claims. France’s efforts to better ensure care for LGBTI+ asylum seekers and refugees was recognised by ECRI in 2022³⁵⁷.

346. <https://eur-lex.europa.eu/eli/reg/2024/1347/oj/eng>.

347. With the exception of Ireland and Denmark.

348. Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Iceland, Ireland, Italy, Latvia, Luxembourg, Malta, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Slovak Republic, Switzerland, United Kingdom.

349. Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Iceland, Ireland, Italy, Latvia, Luxembourg, Malta, Montenegro, Netherlands, Norway, Poland, Portugal, Serbia, Switzerland, United Kingdom.

350. Austria, Belgium, Croatia, Cyprus, Denmark, Estonia, Finland, France, Georgia, Iceland, Ireland, Italy, Latvia, Luxembourg, Malta, Montenegro, Netherlands, Norway, Poland, Republic of Moldova, Serbia, Slovak Republic, Spain, Türkiye, United Kingdom.

351. <https://curia.europa.eu/juris/document/document.jsf?docid=160244&doclang=EN>.

352. Austria, Belgium, Bosnia and Herzegovina, Cyprus, Czech Republic, Denmark, Estonia, France, Germany, Iceland, Ireland, Italy, Luxembourg, Malta, Montenegro, Netherlands, Norway, Poland, Serbia, Slovak Republic, Spain, Sweden, Switzerland, Türkiye, United Kingdom.

353. See for instance *I.K. v. Switzerland* (dec.), no. 21417/17, 19 December 2017 and UNHCR GUIDELINES ON INTERNATIONAL PROTECTION NO. 9 - <https://www.refworld.org/policy/legalguidance/unhcr/2012/en/89548>.

354. Albania, Andorra, Armenia, Azerbaijan, Bulgaria, Finland, Georgia, Greece, Hungary, Latvia, Liechtenstein, Monaco, Portugal, Romania, San Marino, Slovenia, Ukraine.

355. Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, Norway, Portugal, Serbia, Slovenia, Spain, Türkiye, United Kingdom.

356. Austria, Belgium, Bosnia and Herzegovina, Denmark, Finland, France, Germany, Ireland, Latvia, Luxembourg, Malta, Montenegro, Netherlands, Poland, Slovenia, Spain, Sweden, Switzerland, Türkiye, United Kingdom.

357. ECRI’s Sixth Report on France <https://hudoc.ecri.coe.int/?i=FRA-CbC-VI-2022-027-ENG>.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 43:

Member states should ensure particularly that asylum seekers are not sent to a country where their life or freedom would be threatened or they face the risk of torture, inhuman or degrading treatment or punishment, on grounds of sexual orientation or gender identity.

263. The principle of *non-refoulement*, enshrined in Article 33 of the Refugee Convention,³⁵⁸ is of particular importance for LGBTI persons where they can face persecution and criminalisation in some countries of origin or transit. Just over half of member States (25)³⁵⁹ coherently protect asylum seekers from being returned to countries where their life or freedom might be at risk because of their sexual orientation or gender identity. Twelve (12)³⁶⁰ member States ensure protections from *refoulement* for persons on the ground of their gender expression and five³⁶¹ do so concerning their sex characteristics.

264. Many member States use safe country of origin lists to make a quick determination whether an asylum-seeker can be returned to their country of origin, by rejecting their asylum application on the basis of presumed safety, which may still be contested by the applicant. However, these lists do not always consider LGBTI-related risks. Eighteen (18)³⁶² member States maintain countries on their safe lists that criminalise or persecute same-sex relations or transgender identities, and 18³⁶³ do so where there is proven and unsanctioned persecution of LGBTI persons, despite the absence of bans on same-sex relationships or trans identities.

265. Of the member States that maintain safe country lists, some, such as Belgium and France, have strict obligations to ensure that it is regularly reviewed and updated to remove any countries that persecute persons on the basis of their sexual orientation and/or gender identity. The Netherlands exempts LGBTI persons from the safe country of origin principle, however this entails sufficiently early disclosure to benefit from this exemption.

France: Since 2021, the Code on the Entry and Stay of Foreigners and the Right to Asylum obliges the board of directors of the French Office for the Protection of Refugees and Stateless Persons to remove countries that, in a general manner, persecute persons based on their sexual orientation.

Annex to the Recommendation CM/Rec(2010)5 Paragraph 44:

Asylum seekers should be protected from any discriminatory policies or practices on grounds of sexual orientation or gender identity; in particular, appropriate measures should be taken to prevent risks of physical violence, including sexual abuse, verbal aggression or other forms of harassment against asylum seekers deprived of their liberty, and to ensure their access to information relevant to their particular situation.

266. The experience of trans asylum seekers is significantly improved where asylum procedures enable them to use their self-determined name and gender identity throughout, especially in regard to placement, the use of gendered facilities, the form of address used, and in official documents. Seven member States, namely Germany, Iceland, Ireland, Latvia, Norway, Portugal and Spain apply this approach.

267. As noted in Chapter IV on the *Right to Respect for Private and Family life*, asylum-seekers and refugees are able to access legal gender recognition in 17 member States.³⁶⁴ In three of these member States, namely Germany, Iceland and Luxembourg, trans-specific healthcare is also explicitly accessible to asylum-seekers, enabling them to continue or initiate gender-affirming treatments.

358. <https://www.unhcr.org/media/convention-and-protocol-relating-status-refugees>.

359. Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Germany, Denmark, Estonia, France, Georgia, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Montenegro, Netherlands, Norway, Poland, Portugal, Slovak Republic, Spain, Sweden, Switzerland.

360. Belgium, Croatia, Denmark, Estonia, France, Georgia, Italy, Liechtenstein, Luxembourg, Netherlands, Norway, Sweden.

361. Belgium, Bosnia and Herzegovina, Denmark, Italy, Sweden.

362. Andorra, Armenia, Azerbaijan, Cyprus, Czech Republic, Germany, Greece, Italy, Malta, Monaco, North Macedonia, San Marino, Slovak Republic, Slovenia, Switzerland, Türkiye, Ukraine, United Kingdom.

363. Andorra, Armenia, Azerbaijan, Cyprus, Czech Republic, Germany, Greece, Italy, Malta, North Macedonia, San Marino, Slovak Republic, Slovenia, Sweden, Switzerland, Türkiye, Ukraine, United Kingdom.

364. Austria, Cyprus, Czech Republic, Estonia, Finland, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, Norway, Slovenia, Spain, Sweden, Switzerland.

268. Whilst 21³⁶⁵ member States have undertaken some form of action to prevent violence against detained LGBTI asylum-seekers, only a few of these have done so in a comprehensive and coherent manner.

269. Where LGBTI asylum seekers and refugees experience issues with staff, other persons in detention or accommodation facilities, some member States including Ireland, Latvia and the United Kingdom have clear procedures set out in regulations that allow LGBTI asylum-seekers to file complaints.

270. In 24³⁶⁶ member States, LGBTI civil society organisations and other support services are able to access detention and accommodation facilities and can cooperate with them to support LGBTI asylum-seekers and refugees. Denmark and the United Kingdom go further and actively ensure that LGBTI asylum-seekers and refugees are informed about their ability to contact relevant civil society organisations and provide their contact details. In France, the *Code on the Entry and Stay of Foreigners and the Right to Asylum* allows asylum-seekers to be assisted in interviews by any of the 12 authorised LGBTI associations. Civil society organisations have collaborated closely with authorities in some regions in Germany, as well as in Ireland and Norway.

Ireland: In 2023 the Department of Children, Equality, Disability, Integration and Youth commissioned a report on LGBTI residents in International Protection Accommodation Service (IPAS) accommodation, which was carried out by civil society organisation LGBT Ireland. One of the 13 recommendations included a review of the House Rules and Procedures, which began in February 2024, with an aim to combat discrimination and harassment of LGBTI residents.

Iceland: The 2019 Gender Autonomy Act enables a person seeking international protection to have their registration certificates show gender markers according to their gender identity, even if this does not correspond to the identity documents issued by their home state.

365. Belgium, Denmark, Finland, Georgia, Germany, Iceland, Ireland, Italy, Liechtenstein, Malta, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Spain, Sweden, Switzerland, United Kingdom.

366. Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Ireland, Liechtenstein, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Slovenia, Sweden, Ukraine, United Kingdom.

Thematic Chapter XI

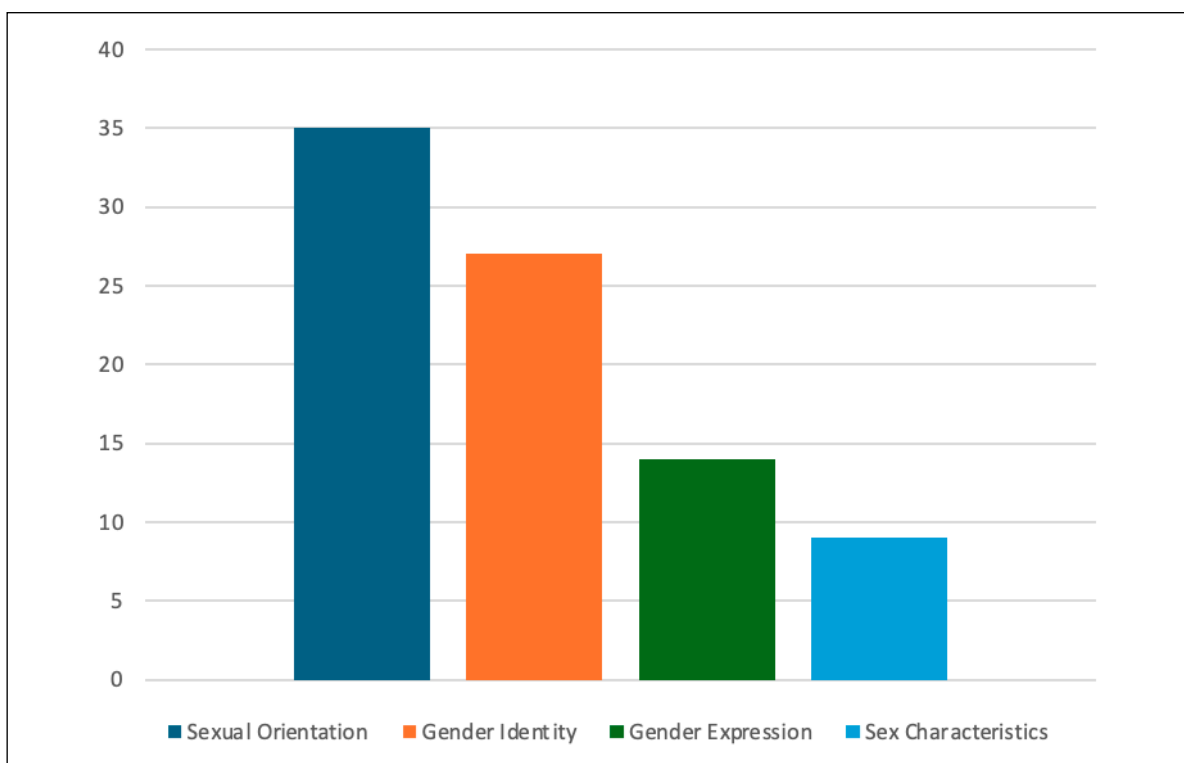
National Human Rights Institutions

Annex to the Recommendation CM/Rec(2010)5 Paragraph 45:

Member states should ensure that national human rights structures are clearly mandated to address discrimination on grounds of sexual orientation or gender identity; in particular, they should be able to make recommendations on legislation and policies, raise awareness amongst the general public, as well as – as far as national law so provides – examine individual complaints regarding both the private and public sector and initiate or participate in court proceedings.

271. In almost three quarters of member States, namely 35,³⁶⁷ equality bodies and NHRIs are mandated to address discrimination based on sexual orientation, whereas 27³⁶⁸ are so mandated concerning gender identity. Fourteen (14)³⁶⁹ member States have measures to ensure their equality bodies and NHRIs are also mandated to cover gender expression and nine³⁷⁰ have such measures for sex characteristics, as recommended by ECRI in its 17th General Policy Recommendation.³⁷¹

Number of member States with NHRIs or Equality Bodies that are explicitly mandated to cover SOGIESC



367. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Greece, Germany, Hungary, Iceland, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Poland, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom.

368. Albania, Andorra, Belgium, Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Liechtenstein, Malta, Montenegro, Netherlands, North Macedonia, Norway, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom.

369. Belgium, Croatia, Denmark, Finland, France, Georgia, Germany, Greece, Iceland, Malta, Netherlands, Norway, Slovenia, Sweden.

370. Belgium, Bosnia and Herzegovina, Denmark, Germany, Greece, Iceland, Malta, Netherlands, Slovenia.

371. <https://rm.coe.int/general-policy-recommendation-no-17-on-preventing-and-combating-intole/1680acb66f>.

272. Eight member States have explicitly mandated their equality bodies and NHRIs to cover all four SOGIESC grounds, these being Belgium, Denmark, Germany, Greece, Iceland, Malta, the Netherlands and Slovenia. In 6 member States, namely Armenia, Azerbaijan, Portugal, San Marino, Türkiye and Ukraine none of the SOGIESC grounds are clearly specified to fall within the work of any equality body or NHRI.

273. As was the case in the 2019 Review, Gender Identity is sometimes subsumed into the definition of “gender” or “sex” to include this ground in pre-existing equality body or NHRI mandates. This is a factor as to why in a further 12³⁷² member States, gender identity is partially covered within their equality body or NHRI’s work. In member States that are also member States of the EU, jurisprudence of the CJEU ³⁷³ has supported this interpretation as reiterated in Recital (7) of Directive 2024/1499.³⁷⁴ Furthermore, Directive 2024/1500³⁷⁵ references how victims of discrimination based on their sex should not be discriminated against based on their gender identity, gender expression or sex characteristics. A lack of clear mandate to include gender identity may result in uncertainty of it being encompassed in the equality body or NHRI’s mandate.

274. In some member States, equality body legislation or anti-discrimination laws do not explicitly reference SOGIESC grounds. Instead, broad terminology is used, or the list of protected characteristics is open-ended, leading to possibly unsystematic interpretation of the equality body’s mandate to include these grounds. In Ukraine, whilst the law on the Commissioner for Human Rights does not mention SOGIESC, their 2021 and 2022 annual reports referred to SOGI issues concerning anti-discrimination and registered partnerships. In Italy, despite the equality body’s remit not explicitly including SOGIESC, it has carried out a number of awareness-raising and training activities related to combating discrimination against LGBTI persons.³⁷⁶ A lack of clarity in mandates, however, can negatively impact the effectiveness of equality bodies in addressing SOGIESC-related discrimination.

275. The establishment of equality bodies with mandates to work on SOGIESC-based discrimination has continued both nationally and regionally. In Iceland, the Icelandic Institute of Human Rights will begin operations on 1st May 2025 and its advisory committee, according to its founding legislation, will always have a member of a specified national LGBTI Civil Society Organisation.

276. In 37³⁷⁷ member States, equality bodies and NHRIs are empowered to provide legislative and policy recommendations on some or all LGBTI issues, and a similar proportion are mandated to raise public awareness. In 2022 the Irish equality body issued a policy recommendation on SOGIESC issues in employment. In Luxembourg, the equality body published an opinion in 2025 on LGBTI-related materials in school curricula.

277. Thirty-three (33)³⁷⁸ equality bodies and NHRIs in member States can receive individual complaints regarding discrimination on SOGIESC grounds, however, as ECRI has reported, such complaints can form a low proportion of the overall discrimination complaints received.³⁷⁹ In some member States, such as Latvia, Lithuania, Serbia, Slovenia, Sweden and the United Kingdom, the equality body or NHRI can file legal proceedings against the perpetrator of the discrimination. In others, for instance in Bosnia and Herzegovina and Finland, the equality body can make its own decisions and enforce them. In some member States, including Austria, Croatia, Italy and Montenegro, the equality body can step in and participate in mediation between the perpetrator and victim to find a mutually agreeable solution. In others, equality bodies and NHRIs can

372. Austria, Bulgaria, Cyprus, Estonia, Ireland, Italy, Latvia, Lithuania, Luxembourg, Monaco, Poland, Republic of Moldova.

373. For example, see C-13/94 P v S and Cornwall County Council, 30 April 1996 - <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:61994CJ0013>.

374. Council Directive (EU) 2024/1499 of 7 May 2024 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024L1499>.

375. Directive (EU) 2024/1500 of the European Parliament and of the Council of 14 May 2024 on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32024L1500>.

376. See ECRI’s Sixth Report on Italy - <https://hudoc.ecri.coe.int/?i=ITA-CbC-VI-2024-27-ENG>.

377. Albania, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Poland, Republic of Moldova, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Ukraine, United Kingdom.

378. Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Georgia, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Malta, Montenegro, Netherlands, North Macedonia, Norway, Poland, Republic of Moldova, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Türkiye, Ukraine, United Kingdom.

379. See for example ECRI’s Sixth Report on Lithuania - <https://hudoc.ecri.coe.int/?i=LTU-CbC-VI-2024-28-ENG> and Sixth Report on Andorra - <https://hudoc.ecri.coe.int/?i=AND-CbC-VI-2024-26-ENG>.

make reports on cases of discrimination such as in Moldova, or issue non-binding legal opinions, such as, in the Netherlands.

278. The number of equality bodies or NHRIs with the mandate to play an active role in court proceedings concerning SOGIESC based discrimination (see §§ 10 and 14 of ECRI's GPR No. 2 on Equality bodies) is considerably less compared to the aforementioned competencies, with this being possible in 18 member States.

Thematic Chapter XII

Discrimination on Multiple Grounds

Annex to the Recommendation CM/Rec(2010)5 Paragraph 45:

Member states are encouraged to take measures to ensure that legal provisions in national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity; national human rights structures should have a broad mandate to enable them to tackle such issues.

279. The understanding of, and approach to, multiple discrimination has continued to evolve since the adoption of the Recommendation, especially through a growing acknowledgement of the concept of intersectionality. CDADI is currently in the process of developing a study on this topic.

280. In *F.M. and Others v. Russia*,³⁸⁰ the Court, in its examination of the merits of the case under the alleged violation of Article 14 taken in conjunction with Article 4, referenced the applicants' submission of being victims of intersectional discrimination. The concept of multiple discrimination, viewed through the lens of intersectionality, has also been included in recent Council of Europe Committee of Ministers Recommendations on combating Hate Crime (CM/Rec(2024)4)³⁸¹ and Hate Speech (CM/Rec(2022)16).³⁸² Furthermore, ECRI's *General Policy Recommendation No. 17*³⁸³ calls on member States to mainstream an intersectional approach in establishing comprehensive and effective laws, policies and action plans for LGBTI people, including in factoring this into data collection.

281. Half of member States (23)³⁸⁴ have included sexual orientation and gender identity in their notion of multiple discrimination; however, the interpretation and implementation of multiple discrimination remains inconsistent across member States.

282. National law, where sexual orientation and/or gender identity are listed as protected characteristics, also includes a reference to multiple discrimination in Albania, Andorra, Austria, Bosnia and Herzegovina, Bulgaria, Belgium, Croatia, Georgia, Germany, Greece, Iceland, Montenegro, North Macedonia, Portugal, Moldova, Romania, Serbia, Slovenia and Spain.

283. In some member States, such as Albania, Andorra, Bosnia and Herzegovina, Croatia, Montenegro, Moldova, North Macedonia, Serbia, Slovenia and Spain, national law explicitly recognises multiple discrimination and considers it an aggravating factor in legal proceedings. In Austria, Belgium and Slovenia, the findings of discrimination on multiple grounds, including SOGI, can result in greater financial compensation.

Belgium: The 2023 Federal Law on Non-Discrimination recognises multiple discrimination as cumulative or intersectional and obliges the judge to factor in multiple discrimination when setting the amount of compensation

284. In Finland, France, Ireland, the Netherlands, Norway and Sweden, whilst multiple discrimination is not directly referenced in statutes, it can be inferred from constitutional provisions, legislation, and the mandate of NHRIs.

380. *F.M. and Others v. Russia*, Applications nos. 71671/16 and 40190/18, 10 December 2024.

381. Recommendation CM/Rec(2024)4 of the Committee of Ministers to member States on combating hate crime.

382. Recommendation CM/Rec(2022)16 of the Committee of Ministers to member States on combating hate speech.

383. <https://rm.coe.int/general-policy-recommendation-no-17-on-preventing-and-combating-intole/1680acb66f>.

384. Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Finland, France, Georgia, Germany, Iceland, Ireland, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Republic of Moldova, Romania, Serbia, Slovenia, Spain, Sweden.

285. Intersectional discrimination is explicitly recognised in member States such as Albania, Andorra, Belgium, North Macedonia and Spain. In North Macedonia, for example, it is defined as “any discrimination on two or more discriminatory bases that are simultaneously and inseparably connected” and in Albania as a form of discrimination whereby “several grounds operate and interact with each other simultaneously in such a way that they are inseparable and produce distinct forms of discrimination”.

286. Recognition in law or practice that discrimination on multiple grounds, including SOGIESC, can interact and result in a unique form of discrimination, through an intersectional lens, helps ensure that victims of such discrimination can attain appropriate redress. Where multiple discrimination and intersectionality are not clearly defined in national law, this does not prevent national courts or national equality bodies from finding instances of it occurring.

287. There has been an uptick in policies addressing multiple discrimination. National Action Plans inclusive of LGBTI matters in Albania, Belgium, Italy, Malta, the Netherlands, Norway and the United Kingdom have adopted an intersectional approach. In some member States, broader policy strategies that are not explicitly LGBTI-focused, for instance on children, health, disability and age, have nonetheless incorporated LGBTI matters through an intersectional lens. For instance, Malta’s Strategic Policy for Active Ageing (2023-2030) includes measures to support older LGBTI persons. Embracing multiple discrimination and intersectionality in this manner when framing policy can tailor that policy to the specific needs of the LGBTI communities.

288. Less than 10% of member States indicated targeted measures to identify specific LGBTI groups with heightened vulnerability and policies to protect and support them, indicating a challenge across member States to support these particularly vulnerable victims. Measures, where they do exist, often form part of national action plans which mention taking an intersectional approach. Some notable examples of positive action include Austria, where there are counselling services for LBT women and sex worker victims; Denmark provided support for LGBTI asylum seekers and migrants; Luxembourg worked with LGBTI homeless people; Malta indicated projects addressing the needs of LGBTI elderly and disabled persons; and Norway took a structured approach to addressing the needs of LGBTI youth.

Recommendations

Horizontal

1. Member States that do not have anti-discrimination legislation in place which clearly addresses discrimination on the grounds of sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC) should move to include these grounds.
2. Where member States do include SOGIESC grounds in their anti-discrimination legislation, they should reinforce these protections through appropriate evidence-based policy measures, with the engagement of NHRIs, and review their implementation based on disaggregated data collection.
3. Member States should adopt national LGBTI strategies and/or action plans adapted to the needs of the LGBTI population, ensure that policy objectives are effectively resourced and monitored, with the engagement of civil society, and, where necessary, followed-up by subsequent strategies and/or action plans.
4. Member states should involve civil society organisations when developing and implementing policies that impact LGBTI persons. Additionally, where consultation with LGBTI civil society organisations is undertaken, the modalities and format should allow for substantial, timely, transparent, and inclusive engagement on the specific needs of LGBTI persons.
5. To inform policy making, member States should, wherever possible, collect disaggregated data on SOGIESC, and undertake national studies on the experience of LGBTI persons across all relevant policy areas/ particularly in family rights and reproductive care, employment, education, health, housing and sports, and include SOGIESC disaggregation in non-LGBTI-specific studies to increase horizontal data wherever possible.
6. Member states are encouraged, to consider establishing a reparations programme for victims of historic criminalisation of LGBTI persons or compensation schemes for systemic human rights violations related to SOGIESC grounds.
7. When developing legislation and policies concerning innovative technologies such as artificial intelligence, member States should ensure that sensitive data regarding LGBTI persons, such as their gender history, is properly protected and that anti-discrimination policies inclusive of SOGIESC grounds are implemented throughout their elaboration.
8. Member states should also take into consideration the recommendations published in the *First Thematic Report: Legal Gender Recognition in Europe*³⁸⁵, the *Second Thematic Report: Hate Crimes and other Hate-motivated Incidents based on Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics in Europe*³⁸⁶ and the *Third Thematic Report: Right to the Highest Attainable Standard of Health and Access to Healthcare for LGBTI People in Europe*³⁸⁷.

Hate Crime/Hate Speech

9. Member States should implement Recommendations CM/Rec(2022)16 and CM/Rec(2024)4, ensure that SOGIESC grounds are included within their definitions of hate crime and hate speech, including online and properly monitor the levels of hate crime and hate speech against LGBTI persons through disaggregated data collection.
10. Member States should ensure that police services, prosecutors, the judiciary and victim support teams are trained to effectively support LGBTI victims of hate crime and hate speech and ensure the effective investigation and prosecution of perpetrators.

385. <https://search.coe.int/archives?i=0900001680a729b3>.

386. <https://search.coe.int/archives?i=0900001680ac3af4>.

387. <https://search.coe.int/archives?i=0900001680b1b910>.

Freedom of Association

11. Member States should ensure that LGBTI civil society organisations receive national funding on an equal basis to other civil society organisations and remove discriminatory registration procedures and disproportionate administrative burdens.

Freedom of Expression and Peaceful Assembly

12. Member States should protect LGBTI events in line with the jurisprudence of the Court, through an appropriate level of support from police services, including adequate protection, and remove any discriminatory provisions, as well as disproportionate administrative burdens, that might unnecessarily restrict or prevent their taking place.

13. Member States should repeal any legislation and/or policy that, in violation of the Convention, prohibits or limits the sharing of LGBTI related information and materials.

Right to Respect for Private and Family Life

14. Member States should ensure that legal gender recognition procedures are available, quick, transparent and accessible, free from abusive requirements in line with the jurisprudence of the Court, and moving towards a self-determination model.

15. Member States should grant legal protection to couples regardless of their gender, through marriage or civil union, striving to align rights and obligations for all couples, in line with the jurisprudence of the Court.

16. Member States should repeal any existing measures that render legal gender recognition impossible or ineffective.

17. Member States should ensure that parenting rights and options available under national law are applied in a non-discriminatory manner to all individuals, including same-sex couples, transgender and intersex persons, in accordance with the jurisprudence of the Court.

Employment

18. Member States should ensure that anti-discrimination legislation is inclusive of SOGIESC grounds, covers all types of employment, including public, private and self-employment sectors, as well as all aspects of employment, such as access to employment, promotion, dismissals, pay and other working conditions, and the prevention and punishment of harassment.

19. Member States should consider implementing policies that address the equal treatment of transgender persons in the workplace including access to employment, education and training policies, and recruitment procedures, as well as by protecting their gender history and ensuring access to and usage of appropriate facilities taking into account their gender identity, where they are segregated by gender.

Education

20. Member States should review their educational curricula to ensure it includes factual, objective, non-stigmatising and non-judgmental information about gender, sexual orientation, gender identity and expression, and sex characteristics.

21. Member States should repeal any laws or policies that ban the sharing of age-appropriate information on LGBTI matters in the public sphere, including schools, or in the media.

22. Member States should ensure that age-appropriate comprehensive sexuality education is taught in schools through curricula that cover the diversity of sexual orientations, gender identities and expressions, and sex characteristics in a manner that is factual, objective, non-stigmatising, and non-judgmental.

23. Member States should implement nationwide measures to prevent and address anti-LGBTI bullying, harassment and discrimination in schools, following a holistic approach. This should include guidance on violence prevention plans and code of conducts for schools, school-based inclusive education programmes, training for teachers and school staff on how to respond appropriately to bullying, and reporting mechanisms and support systems for students experiencing bullying.

24. Member States should provide ongoing support, including training, guidance and resources, for teachers and other educational staff in order to ensure professional competence and confidence to prevent and address SOGIESC-based discrimination, bullying and violence.

Health

25. Member States should implement the ICD-11 in their national medical classifications and ensure that no mental disorder diagnosis is required to access trans-specific healthcare. Member States should repeal any laws or policies, which ban or restrict effective access to trans-specific healthcare.

26. Member States should adopt and implement comprehensive bans on so-called conversion practices as recommended by the Council of Europe, the EU, and the UN.

27. Member States should ban and sanction normalising surgery and medical practices modifying sex characteristics of intersex children, except when such an intervention is needed to avert an imminent threat to life or serious physical harm, until the individual concerned is able to provide prior, free, informed, express and documented consent.

Housing

28. Given the high risk of homelessness faced by LGBTI persons, particularly vulnerable groups such as LGBTI youth and trans and intersex persons and LGBTI persons with a migration background, member States should ensure that social housing policies or policies focusing on housing or homelessness address the specific needs of LGBTI people.

29. Member States should introduce measures to ensure institutional living settings, such as hospitals, nursing homes, detention centres, and other similar facilities fully cater to the needs of LGBTI persons

Sports

30. Member States should ensure that LGBTI persons are able to participate in sports in schools, at grass-roots level and professionally without fear of hatred or violence through promoting awareness raising and developing policy around LGBTI participation in sport at all levels.

31. Member States are encouraged to address the increasing stigmatisation towards transgender and intersex persons and their participation in sports when devising policies towards inclusion.

32. Member States should work with sports bodies to ensure that their regulations comply with human rights principles, norms and standards, including when adopting and implementing sports eligibility rules, and address anti-LGBTI sentiment around major sporting events.

Asylum

33. Member States should ensure that SOGIESC grounds are recognised as protected characteristics based on which a claim for asylum can be filed and that officials working throughout the asylum procedure are properly trained to handle such claims in a respectful, informed and sensitive way.

34. Member States should ensure that no LGBTI person is returned to a country where LGBTI persons are not safe and can be under threat of persecution because of their SOGIESC. Where they implement a safe country list policy, this list should be regularly reviewed and its application should take into consideration specific vulnerabilities of LGBTI persons.

NHRIs

35. Member States should ensure that the mandates of their equality bodies and NHRIs clearly address discrimination on SOGIESC grounds. They should also strengthen the ability of these bodies to raise awareness on LGBTI issues and to support LGBTI persons by enabling them to participate in judicial proceedings.

Discrimination on Multiple Grounds

36. Member States should adopt an equality mainstreaming approach, ensuring that the specific needs of lesbian, gay, bisexual, transgender and intersex populations are addressed in LGBTI strategies or policies, and that the needs of LGBTI persons are included in policy development across all fields.

37. When developing policy, member States should take into consideration the heightened vulnerabilities of LGBTI persons exposed to intersectional or multiple grounds of discrimination, including - but not limited to - LGBTI women, LGBTI persons exposed to discrimination also based on skin colour, religion, belief, political or other opinion, LGBTI persons of ethnic, cultural and linguistic minority backgrounds, LGBTI sex workers, LGBTI persons with disabilities, LGBTI asylum seekers and refugees, LGBTI children, youth and older persons.

38. Member States are encouraged to continue developing their understanding of intersectionality, in line with the Reykjavik Declaration and as reflected in the study on intersectional discrimination being developed by CDADI, and consider how their anti-discrimination frameworks can incorporate the specificities of this form of discrimination.

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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.