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UPR 15th Session RECOMMENDATIONS RELATING TO SEXUAL ORIENTATION & GENDER IDENTITY

Summary

France

Recommendations: Adopt additional measures for the protection of the family institution and stop propaganda on relations between same-sex couples at the state level. Bring up the issue of adoption of children by same-sex couples to the public consideration.

Response: pending to June 2013

Tonga

Recommendations: strengthen measures to eliminate all discriminatory treatment related to sexual orientation or gender identity; Decriminalize consensual sexual relations between same-sex adults.

Response: Pending to June 2013

Romania

Recommendations: intensify training for State and local authorities and the public at large on international human rights standards, particularly those in relation to sexual orientation and gender identity; Take practical action to ensure that existing anti-discrimination legislation is properly enforced so as to combat discrimination against its citizens, both systemic and overt, based on in particular, ethnicity, sexual orientation and gender identity, and HIV status; Ensure that acts of discrimination against LGBT persons and persons belonging to other vulnerable groups are properly investigated and perpetrators held accountable.

Response: Pending to June 2013

Mali

There were no references to sexual orientation or gender identity during the working group review of Mali, or in the input reports. This was also the case during the first cycle.

Botswana

Recommendations: Take steps to implement comprehensive anti-discrimination laws, particularly to eliminate discrimination on the basis of sexual orientation; Engage in a dialogue to repeal laws which criminalize consensual adult same sex relations.

Response: Pending to June 2013

Recommendations: Decriminalize consensual same-sex activities between adults.

Response: Rejected.

Bahamas

Recommendations: Adopt measures to eradicate negative gender stereotypes; address the commission of any criminal acts or violence directed towards people based on their actual or perceived sexual orientation; Include sexual orientation as a prohibited ground of discrimination in its Constitution Reform process; Repeal all provisions that discriminate against persons on the grounds of their sexual orientation, including in the Domestic Violence Act (Protection Orders) and the Sexual Offences and Domestic Violence Act.

Response: Pending to June 2013.

Burundi

Recommendations: Revoke article 567 from the Penal Code and remove any discrimination on the grounds of sexual orientation from all other laws and policies; Adopt all necessary political and legislative measures to decriminalize sexual relations between consenting adults of the same sex as well as adopt measures to guarantee the enjoyment of the right to health without discrimination based on sexual orientation; Revise its education policy that further entrenches discrimination on the basis of sexual orientation; Investigate, prosecute and, if convicted, punish perpetrators of human rights abuses, including those committed against civil society groups, members of the media and LGBT individuals.

Response: Pending to June 2013.

Luxembourg

Recommendations: Include 'gender reassignment' as a ground for protection in domestic anti-discrimination legislation; Adopt and comprehensively implement the draft law on the marriage among same-sex persons.

Response: Pending to June 2013.

Barbados

Recommendations: Show leadership in human rights issues by protecting all human rights within the country, including those LGBT, and the freedom of movement and expression of human rights defenders, starting by organizing a dialogue between government, civil society and interested individuals, on these and other human rights related issues; Enhance its efforts to eliminate gender stereotyping; strengthen measures to eliminate any discriminatory treatment based on sexual orientation; Implement measures to protect the LGBT population from harassment, discrimination and violence; Repeal laws that criminalize consensual same sex adult sexual relations; establish policies to combat discrimination, prejudice and violence based on sexual orientation or gender identity.

Response: Pending to June 2013.

Montenegro

Recommendations: Take additional concrete steps to combat societal discrimination on the basis of race, sexual orientation, disability or gender identification; Take measures necessary to protect the rights of LGBT persons effectively and investigate and prosecute alleged cases of violence and discrimination against LGBT persons; Establish effective mechanisms of dialogue with human rights defenders in the field of sexual minorities; Consider amending the Criminal Code so that hate crimes against LGBT persons are considered serious criminal offenses or at least aggravating circumstances.

Response: Accepted.

United Arab Emirates

Recommendations: Protect the human rights of all individuals, including LGBT individuals, and take appropriate steps to help ensure that protection is provided to the victim and perpetrators are identified and prosecuted; Repeal the criminalization of sexual relations between persons of the same sex.

Response: Pending to June 2013.

Israel

Israel failed to appear before the UPR Working Group. The Human Rights Council adopted a decision agreeing to defer Israel's review to the 17th session of the UPR, at the latest. Read more at <http://www.upr-info.org/+Israel-absent-from-its-own-UPR+.html>

Liechtenstein

Recommendations: Develop a comprehensive strategy to eliminate discriminatory gender stereotypes; Take the necessary measures to raise awareness among the population against homophobia, and in general, in favour of the non-discrimination on the basis of sexual orientation, undertaking global public awareness campaigns.

Response: Pending to June 2013.

Serbia

Recommendations: Respond effectively to discrimination and violence against LGBT persons and ensure their safety during public events; Establish a more effective mechanism of dialogue with human rights defenders in the area of sexual minorities; Take concrete steps to protect its LGBTI citizens and their freedom of assembly and expression.

Response: Accepted.

FRANCE

Date of review: Monday, 21 January AM

I. Summary of the proceedings of the review process

A. Presentation by the State under review

9. Une personne qui vivait en France avait davantage de possibilités pour dénoncer une discrimination dont elle serait victime, notamment dans l'emploi. Chaque parquet des tribunaux français disposait d'un pôle anti-discrimination dont la compétence recouvrait tous les actes commis en raison de l'appartenance de la victime à une ethnie, une nation, une race, une religion ou du fait de son orientation sexuelle.

11. Le gouvernement issu des élections du printemps 2012 avait la volonté d'ancrer son action dans la recherche de davantage de protection des libertés fondamentales. Un Ministère des Droits des femmes avait été instauré pour promouvoir toutes les mesures destinées à faire respecter et promouvoir les droits des femmes dans la société. Ce Ministère était également chargé d'animer la coordination du travail gouvernemental contre les violences et les discriminations liées à l'orientation sexuelle et à l'identité de genre.

B. Interactive dialogue and responses by the State under review

32. New Zealand commended the establishment of a minister of Women's Rights asking about concrete steps to coordinate action in combating violence and discrimination against LGBT

persons. It expressed concern about the impact of the law banning facial coverings in public spaces. It made recommendations.

II. Conclusions and/or recommendations

120. The following recommendations will be examined by France which will provide responses in due time, but no later than the 23rd session of the Human Rights Council in June 2013:

120.130. Adopt additional measures for the protection of the family institution and stop propaganda on relations between same-sex couples at the state level. Bring up the issue of adoption of children by same-sex couples to the public consideration (Belarus).

TONGA

Date of review: Monday, 21 January PM

I. Summary of the proceedings of the review process

51. The United Kingdom of Great Britain and Northern Ireland encouraged Tonga to establish a human rights institution in compliance with the Paris Principles. It called upon Tonga to take steps to advance the legal position of women and asked how Tonga plans to address discriminatory rules against women. While taking note of Police Act 2010, it was concerned about allegations against police officers and urged Tonga to take further measures in this regard, and to repeal all provisions that criminalise consensual same-sex conduct. It made recommendations.

II. Conclusions and/or recommendations

81. The following recommendations will be examined by Tonga which will provide responses in due time, but no later than the 23rd session of the Human Rights Council in June 2013.

81.5. Examine the possibility of strengthening measures to eliminate all discriminatory treatment related to sexual orientation or gender identity (Argentina);

81.6. Bring its national legislation into conformity with its commitment to equality and non-discrimination, by repealing the provision in the Penal Code to criminalize sexual relations between consenting adults of the same sex (Norway);

81.7. Decriminalize consensual sexual relations between same-sex adults, and combat cases of discrimination against those persons (Spain);

81.8. Repeal the provisions of the Tongan Criminal Offences Act criminalizing consensual sex between adults of the same gender (United States of America);

81.9. Amend its legislation to repeal laws which criminalize consensual adult same-sex relations (Canada);

81.10. Abrogate all penal provisions criminalizing sexual relations between consenting adults of the same sex (France).

ROMANIA

Date of review: Tuesday, 22 January AM

25. Czech Republic welcomed the ratification of OP-CAT. It encouraged Romania to strengthen efforts to combat discrimination, including discrimination and violence against women and children, Roma, LGBT persons and people living with HIV/AIDS. It made recommendations.

34. Holy See congratulated Romania for its efforts on judicial reform, to eradicate discrimination on grounds of sexual orientation, the Roma integration strategy 2012-2020 and

the new legislation on education. It highlighted that the Civil Code recognizes marriage as a union between a man and a woman. It made recommendations.

50. The Netherlands expressed its concern about discrimination against lesbian, gay, bisexual and transgender persons. It also stated that there was no active strategy for sexual and reproductive health, despite high rates of teenage pregnancy, abortions and poor access to services. It made recommendations.

84. Austria welcomed Romania's ratification of the CRPD and asked how it would be implemented. It commended improvements to the legal framework for human rights protection, but was concerned about widespread discrimination against the Roma, the LGBT community and other vulnerable groups. Austria made recommendations.

87. Belgium enquired about progress made in addressing the marginalization and social exclusion of the Roma and whether any new initiatives were envisaged to improve their situation. It asked what steps had been taken to prevent discrimination based on sexual orientation. Belgium made recommendations.

II. Conclusions and/or recommendations

109. The following recommendations will be examined by Romania which will provide responses in due time, but no later than the 23rd session of the Human Rights Council in June 2013:

109.39. Further intensify training for State and local authorities and the public at large on international human rights standards, particularly those in relation to sexual orientation and gender identity (Finland);

109.43. Intensify even further its efforts undertaken in regard to initiatives and awareness-raising programmes on gender equality and the protection of LGBT rights (Estonia);

109.45. Take practical action to ensure that existing anti-discrimination legislation is properly enforced so as to combat discrimination against its citizens, both systemic and overt, based on in particular, ethnicity, sexual orientation and gender identity, and HIV status (Australia);

109.70. Ensure an adequate publicity and carry out awareness campaigns in order to increase the understanding among the population on the rights of LGBT persons (Belgium);

109.71. Ensure that acts of discrimination against LGBT persons and persons belonging to other vulnerable groups are properly investigated and perpetrators held accountable (Austria);

109.72. Adopt appropriate measures to counter discrimination of LGBT people and to develop policies in order to integrate existing legislation against discrimination at various societal levels in Romania (Netherlands).

MALI

Date of review: Tuesday, 22 January PM

There were no references to sexual orientation or gender identity during the working group review of Mali, or in the input reports. This was also the case during the first cycle.

BOTSWANA

Date of review: Wednesday, 23 January AM

45. The United Kingdom of Great Britain and Northern Ireland took note of the positive progress with regard to children's rights, prison conditions and HIV/AIDS awareness. It expressed disappointment with the criminalization of homosexuality. Closer attention should be given women's rights. It made recommendations.

90. In response to the questions raised from the floor, the Delegation stated that the Constitution is the supreme law of the land. Cultural practices that are deemed to be inconsistent with the Constitution would not prevail, if challenged.

91. Furthermore, the delegation stated that, as a predominantly Christian nation, Botswana has not reached a stage where it can accept same-sex activities. It would be necessary to engage in educational campaigns on this issue so that when the laws are changed, the people are carried along.

92. Regarding cultural sensitivities that have a bearing on existing legislation, the delegation confirmed Botswana's commitment to comply with its treaty obligations. In this regard, the Government was determined to undertake educational awareness campaigns with a view to bring up these issues, including sexual orientation, corporal punishment and death penalty. Thus far, public consultations have confirmed that Botswana still support the retention of corporal punishment, death penalty and the criminalization of same sex activities.

97. Netherlands commended Botswana on progress made since the 1st UPR cycle, but noted that challenges remained, including discrimination and violence against women and girls and the LGBT community and criminalization of same sex activities. It noted that Botswana considered education to be the key to changing culturally-rooted prejudices. Netherlands made recommendations.

II. Conclusions and/or recommendations

116. The recommendations listed below will be further examined by Botswana and its position on each of these recommendations will be provided in due time, but no later than the 23rd session of the Human Rights Council in June 2013:

116.35. Take steps to implement comprehensive anti-discrimination laws, particularly to eliminate discrimination on the basis of sexual orientation (Australia);

116.38. Engage in a dialogue to repeal laws which criminalize consensual adult same sex relations (Canada);

117. The recommendations which appear below have been examined by Botswana and do not enjoy its support:

117.27. Decriminalize consensual same-sex activities between adults and promote tolerance in this regard (Czech Republic);

117.28. Evaluate to repeal the criminalization of same-sex relations (Argentina);

117.29. De-criminalize same sex activities and adopt policies to counter discrimination against LGBT (Netherlands);

117.30. Decriminalize consensual sexual relations between same-sex adults and strength efforts to combat discrimination against those persons, while respecting their rights to association and representation in civil society (Spain);

117.31. Remove relevant articles of the Penal Code criminalising same sex sexual activities (Slovakia);

117.32. Guarantee the fundamental rights of all persons living in Botswana and thereby decriminalize sexual relations of consenting adults of the same sex (France);

BAHAMAS

Date of review: Wednesday, 23 January PM

I. Summary of the proceedings of the review process

A. Presentation by the State under review

29. On sexual orientation or gender identity, the Head of Delegation informed that The Bahamas' Constitution in its Preamble refers to its respect for Christian values. They believe that "family" is the foundation of a strong Nation. Marriage in The Bahamas is the union of a man and a woman. There is no formal or positive legal discrimination against persons in The Bahamas based on sexual orientation or gender identity, although it is not included as a prohibited ground of discrimination in the Constitution, or legislation which prohibits discrimination in specific areas (such as employment). Neither have there been any reported cases where anyone has alleged discrimination on the basis of sexual orientation. There have been, within the past few years, a few instances of violence which involved persons alleged to be "gay". However, these incidents were domestic in nature, characterized by a dispute between the parties themselves, and not provoked by any form of discrimination.

30. The Bahamas was the first country in the Commonwealth Caribbean (in 1991) to decriminalize consensual sex between persons of the same gender. Also, in 2010, and again during the current 67th session of the General Assembly, The Bahamas voted in support of the retention of language in a resolution condemning killings for any discriminatory reason to specifically include "sexual orientation" as a discriminatory ground for such killings. The Bahamas' will remain engaged in the international discussions on the matter.

B. Interactive dialogue and responses by the State under review

40. New Zealand recognized the capacity and resource challenges Bahamas faced as a small island developing State. It also welcomed the country's acceptance of a recommendation to consider measures to promote tolerance and non-discrimination on the grounds of sexual orientation and thanked the Government for information provided on steps taken in that regard.

41. Norway was concerned about reported high incidences of domestic violence and acknowledged efforts to combat the problem. It noted that The Bahamas had accepted recommendations to consider measures to promote non-discrimination regarding sexual orientation.

57. Uruguay highlighted the fact that despite the abrogation of the crime of homosexuality, certain legal loopholes generated discrimination against LGBT persons. It noted that, while the courts recognized property rights in de facto unions, there was no legal mechanism regulating such unions.

63. Bangladesh [...] was concerned at deep-rooted stereotypes regarding men and women's roles, responsibilities and identities.

65. Brazil welcomed Bahamas' commitment to equality and non-discrimination and asked for information about measures to promote tolerance and non-discrimination on grounds of sexual orientation.

66. Canada welcomed the Bahamas' efforts to counter all forms of discrimination against persons with disabilities and commended Bahamas on not criminalizing homosexuality.

84. The Netherlands noted the Bahamas' consultation of civil society in implementing recommendations through "town hall" meetings to promote development and dialogue. It commended The Bahamas on its Domestic Violence Act 2007, which defines comprehensively violence in the home and criminalises stalking and harassment. However, it was concerned

that the term “partner” only refers to a relationship between a man and a woman and is hence discriminatory.

II. Conclusions and/or recommendations

92. The following recommendations will be examined by The Bahamas which will provide responses in due time, but no later than the 23rd session of the Human Rights Council in June 2013:

92.33. Put in place a comprehensive strategy with a result-oriented approach to eliminate stereotypes that discriminate against women in the family, the workplace, in politics and in collaboration with civil society (Norway);

92.34. Adopt further measures aiming at addressing the situation of discrimination between men and women and to eradicate negative stereotypes (Italy);

92.37. Adopt measures to address the commission of any criminal acts or violence directed towards people based on their actual or perceived race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor (Canada);

92.76. Include sexual orientation as a prohibited ground of discrimination in its Constitution Reform process (New Zealand);

92.77. Modify its legal framework in order to protect sexual minorities against discrimination (Norway);

92.78. Repeal all provisions that discriminate against persons on the grounds of their sexual orientation, including in the Domestic Violence Act (Protection Orders) and the Sexual Offences and Domestic Violence Act (United Kingdom of Great Britain and Northern Ireland);

92.79. Adopt legislation that prohibits discrimination on the basis of sexual orientation and gender identity, and reinforce existing constitutional provisions that prohibit discrimination based on race and national origin (United States of America);

92.80. Establish and implement policies and initiatives to address discrimination on the grounds of sexual orientation or gender identity (Uruguay);

92.81. Promote the necessary measures to repeal provisions discriminating people on the grounds of sexual orientation, including those contained in the Sexual Offences and Domestic Violence Act, and the Penal Code (Uruguay);

92.82. Consider the possibility of furthering the measures to eliminate all discriminatory treatment on the grounds of sexual orientation (Argentina);

92.83. Include same-sex couples in the Domestic Violence Act and make sure everyone is protected against domestic violence (Netherlands);

92.84. Repeal all provisions giving rise to discrimination on the grounds of sexual orientation or gender identity and ensure the respect of the fundamental freedoms of all citizens (France).

BURUNDI

Date of review: Thursday, 24 January AM

I. Summary of the proceedings of the review process

37. Hungary welcomed Burundi's legislative efforts as well as the NIHRC. It raised concerns about impunity regarding political killings and torture, sexual violence and the criminalization of same sex relations.

50. The Netherlands commended the variety media and wondered how this relates to the new media law, presumably more restrictive on press media. It urged to continue dialogue with opposition parties. It noted with concern that education policy entrenched discrimination on the basis of sexual orientation.

76. Slovenia welcomed the NIHRC; the action plan to eliminate child labour; the equal gender distribution in schools. Slovenia remained concerned about girls' drop-out, teenage pregnancies and criminalization of same sex relations.

82. Thailand commended efforts to protect Batwa and albinos; empower rural women; and improve detention conditions. Thailand was concerned about discrimination in education of girls, albinos and Batwa children; and criminalization of homosexuality.

89. Uruguay welcomed the NIHRC. Despite changes to criminal legislation, the continued criminalization of homosexuality raised concern. It noted that de facto discrimination of certain groups continued to be tolerated.

117. Czech Republic welcomed efforts to overcome challenges in the process of reconciliation and strengthening the rule of law, the abolition of the death penalty and the criminalization of torture under the new Criminal Code, but was concerned that it also criminalized same-sex relations.

123. Par rapport à la discrimination des personnes homosexuelles, le Burundi a reconnu que le Code pénal de 2009 réprime toujours l'homosexualité. Cette situation correspond aux coutumes et mœurs du pays et la délégation a demandé à la communauté internationale d'être compréhensive en attendant que la société burundaise se prépare à un changement de mentalité. Le chef de délégation a cependant souligné qu'elle soulèverait cette question avec le gouvernement.

II. Conclusions and/or recommendations

128. The formulated during the interactive dialogue and listed below will be examined by Burundi which will provide responses in due time, but no later than the 23rd session of the Human Rights Council in June 2013.

128.20. Revoke article 567 from the Penal Code and remove any discrimination on the grounds of sexual orientation from all other laws and policies (Hungary);

128.21. Repeal the provisions of the 2009 Criminal Code which criminalize sexual relations between consenting adults of the same sex (Slovenia);

128.22. Decriminalize sexual relations between consenting adults of the same sex as well as abolish other rules which promote discrimination based on sexual orientation (Spain);

128.23. Consider decriminalizing homosexuality, in particular relations between consenting adults (Thailand);

128.24. Adopt all necessary political and legislative measures to decriminalize sexual relations between consenting adults of the same sex as well as adopt measures to guarantee the enjoyment of the right to health without discrimination based on sexual orientation (Uruguay);

128.25. Undertake a process of revising its penal code by aiming to amend article 567 criminalizing relationships between persons of the same sex (Canada);

128.26. Reconsider decriminalizing certain conducts based on sexual orientation and gender identity, as recommended by the High Commissioner for Human Rights (Chile);

128.46. Implement follow up mechanisms of the UPR recommendations that allows verifying the implementation and impact of legislation and measures adopted to promote equal rights and non-discrimination for all citizens, in particular vulnerable groups such as: women, children, ethnic minorities, LGBTI community and persons with disabilities (Colombia);

128.82. Revise its education policy that further entrenches discrimination on the basis of sexual orientation (Netherlands);

128.83. Ensure that no one is discriminated against on any grounds, including on the grounds of sexual orientation and gender identity (Brazil);

128.112. Investigate, prosecute and, if convicted, punish perpetrators of human rights abuses, including those committed against civil society groups, members of the media and LGBT individuals (United States of America);

LUXEMBOURG

Date of review: Thursday, 24 January PM

I. Summary of the proceedings of the review process

A. Presentation by the State under review

19. Concernant les projets de loi ayant trait à la modification de l'âge légal du mariage, à la suppression du délai de viduité et au mariage pour deux personnes du même sexe, le Conseil d'Etat vient de rendre ses avis et les textes sont en cours de discussion à la Commission juridique de la Chambre des députés.

B. Interactive dialogue and responses by the State under review

118. The following recommendations will be examined by Luxembourg which will provide responses in due time, but no later than the 23rd session of the Human Rights Council in June 2013:

118.4. Include 'gender reassignment' as a ground for protection in domestic anti-discrimination legislation (United Kingdom of Great Britain and Northern Ireland);

118.46. Adopt and comprehensively implement the draft law on the marriage among same-sex persons (Netherlands);

BARBADOS

Date of review: Friday, 25 January AM

I. Summary of the proceedings of the review process

A. Presentation by the State under review

21. Similarly, on Lesbian, Gay, Bisexual and Transgender Persons (LGBT) there is no consensus on repealing the country's laws on buggery. Though buggery is criminalized by the Sexual Offences Act, persons who engage in same sex relationships are not prosecuted since without a complaint there can be no successful prosecution of such acts. Persons engaged in such relationships are unlikely to complain to the police and therefore, though the law on buggery is in the statutes books, gay persons are not prosecuted in Barbados for their sexual preferences. Prosecution can only occur if a minor is involved or a non-consenting adult.

22. Barbados took note of the position of the international community that there is an onus on the Government to show leadership on such issues. Nevertheless, it recalled that Barbados is a democracy and that as such the Government is hesitant to go against the wishes of its people. However, it is committed to ensuring that the rights of all persons are protected from harm.

37. Barbados then replied to the advanced questions it had received noting that information had already been provided during its intervention regarding most of the issues raised.

38. On questions related to criminalization of same-sex activities Barbados reiterated information previously provided highlighting there is no intervention by the law in relations between consenting adults.

41. On the question about steps being adopted against aggressive and discriminatory policing, it was reiterated that the Police Force receives training in customer service, public relations, human rights, community engagement, conflict resolution and officer safety. It was recalled that a Police Complaints Authority has been established and meets regularly to consider complaints against the police.

B. Interactive dialogue and responses by the State under review

62. Germany remained concerned by gender-based violence, including domestic violence, as well as sexual harassment and discrimination against women. It was equally concerned by the criminalization of consensual homosexual relations and the lack of legislation prohibiting discrimination on the grounds of sexual orientation. It asked what measures the State party intended to take to combat the criminalization of and discrimination against the LGBT community.

72. Morocco welcomed the establishment of the Office of the Ombudsman, which would spearhead a public education programme on human rights in 2013, and progress made in social protection, health, education, employment, the rights of the elderly, single parents and women, and in combating LGBT discrimination. It asked for an update on progress in implementing the National Youth Policy.

75. Norway noted steps to follow up recommendations that were accepted during the last review, notably in the fields of decent work, gender equality and the intention to establish a national human rights institution. It encouraged Barbados to advance in several key areas to meet international human rights standards. It stated that religious or cultural beliefs cannot be used to criminalize intimacy between consenting adults.

81. Slovenia noted steps taken to promote women's empowerment and advance gender equality. It welcomed, particularly, the training programmes and awareness raising activities of the Bureau of Gender Affairs. It regretted that no legislation had been adopted to decriminalize consensual sexual relations between adults of the same sex.

88. United States of America while appreciating Barbados' commitment to protect all members of society from harassment, discrimination and violence regardless of sexual orientation, was concerned about reports of discrimination and harassment against members of the LGBT community. It was concerned about the criminalization of same-sex sexual activity between consenting adults and failure to prohibit discrimination based on sexual orientation and gender identity. Additionally, it expressed concern at allegations of excessive use of force by the police and delays in transmitting case files; and about legislation on transitional crime being inconsistent with international standards because it requires migration as a necessary element of human trafficking.

II. Conclusions and/or recommendations

102. The recommendations will be examined by Barbados which will provide responses in due time, but no later than the 23rd session of the Human Rights Council in June 2013.

102.38. Show leadership in human rights issues by protecting all human rights within the country, including those LGBT, and the freedom of movement and expression of human rights defenders, starting by organizing a dialogue between government, civil society and interested individuals, on these and other human rights related issues (Netherlands);

- 102.49. Enhance its efforts to eliminate gender stereotyping (Bangladesh);
- 102.53. Continue efforts made aimed at combating discrimination and religious intolerance, especially against the rastafari; and to strengthen measures to eliminate any discriminatory treatment based on sexual orientation (Argentina);
- 102.54. Introduce measures to promote tolerance and non-discrimination of the LGBT persons (Slovenia);
- 102.55. Establish policies and initiatives to address discrimination based on sexual orientation and gender identity (Brazil);
- 102.56. Implement measures to protect the LGBT population from harassment, discrimination and violence (Uruguay);
- 102.96. Repeal laws that criminalize consensual same sex adult sexual relations (Canada);
- 102.97. Repeal the provisions that criminalize consensual homosexual relations, notably those contained in the Sexual Offences Act and establish policies to combat discrimination, prejudice and violence based on sexual orientation or gender identity (France);
- 102.98. Repeal all legislative provisions that discriminate against persons on the grounds of their sexual orientation, including in the Sexual Offences Act, within the next two years (United Kingdom of Great Britain and Northern Ireland);
- 102.99. Repeal all provisions that criminalize same-sex conduct (Norway);
- 102.100. Decriminalise consensual same-sex conduct between adults and take all necessary steps to protect LGBT community from all forms of discrimination (Ireland);
- 102.101. Amend the criminal code to decriminalize same-sex sexual activity between consenting adults and adopt legislation that prohibits discrimination on the basis of sexual orientation and gender identity (United States of America);
- 102.102. Adopt all necessary political and legislative measures to decriminalize consensual same-sex sexual relations between adults (Uruguay).

MONTENEGRO

Date of review: Monday, 28 January AM

I. Summary of the proceedings of the review process

A. Presentation by the State under review

7. Montenegro has achieved significant progress in relation to the previous report in 2008, regarding the following, inter alia: independence of Judiciary; decriminalization of insult and defamation; fight against corruption and organized crime; prison system improvement; legal reforms related to anti-discrimination, domestic violence, trafficking in human beings, strengthening of capacities of Ombudsman; setting up the Council for anti-discrimination, Council for persons with disabilities and Council for rights of the child; advancement of tolerance towards differences, in particular in relation to the LGBT population; social inclusion of the Roma and Egyptian community.

13. Three important international conferences have been organized so far (two of them took place last year), devoted primarily to LGBT rights.

B. Interactive dialogue and responses by the State under review

47. The United States of America recognized success in the areas of LGBT rights, torture prevention and finding housing for refugees in Konik.

49. Germany requested details of plans to promote and defend the rights of the LGBT community.

62. The Netherlands welcomed the legislative framework providing protection against discrimination and the establishment of the Ombudsman. Discrimination on the basis of sex, sexual orientation and gender identity persisted throughout society, despite the improved legislative and administrative framework. It encouraged the Government to promote and defend the rights of the LGBT community and to prosecute the perpetrators of crimes against them.

69. Slovenia welcomed the adoption of legislation and specific measures to address discrimination in general, but especially discrimination on grounds of sexual orientation and gender identity, and legislation to prohibit the publication of information and opinions aimed at inciting discrimination. It also welcomed the adoption of legislation on protection from domestic violence.

70. Responding to comments made, the delegation [of Montenegro] referred to significant steps taken to address the high level of homophobia in Montenegro. In December 2011, the Government set up three working groups (with equal numbers of representatives of ministries and NGOs), with the aim to create the conditions for LGBT persons to obtain equal status in the community.

83. Switzerland welcomed progress made in combating discrimination, particularly efforts to combat discrimination based on sexual orientation and gender identity, and the ratification of the OP-CAT. It remained concerned, however, about attacks and harassment inflicted on the independent press; difficulties encountered by minorities in obtaining full enjoyment of their rights to education and adequate housing; and the dealing with the past.

85. Ukraine commended Montenegro for implementing recommendations accepted during the 2008 review. It particularly welcomed legislative measures adopted to combat direct and indirect discrimination based on gender, sexual orientation and gender identity. Ukraine encouraged Montenegro to intensify its efforts further to promote inter-ethnic harmony and tolerance among the general public.

87. United Kingdom of Great Britain and Northern Ireland urged Montenegro to effectively implement legislation to guarantee the rights of persons with disabilities and combat discrimination and domestic violence. It noted concerns about the independence of the judiciary, public attitudes towards homosexuality and inequalities faced by minorities in living conditions, access to public institutions and education. The United Kingdom encouraged investment in training for the police and judiciary to combat prejudice at all levels.

98. Belgium welcomed progress on implementing a legislative and institutional system to guarantee the enjoyment, protection and promotion of human rights, but was concerned about persistent discrimination against the LGBT community.

II. Conclusions and/or recommendations

117. The recommendations formulated during the interactive dialogue and listed below have been examined by Montenegro and enjoy its support:

117.26. Take additional concrete steps to combat societal discrimination on the basis of race, sexual orientation, disability or gender identification (Australia);

117.33. Further strengthen efforts to implement the principles contained in the Law on Anti-Discrimination, including by combating discrimination against members of the LGBT community (Norway);

117.34. Fully implement adopted legal measures against discrimination based on sexual orientation and gender identity (Czech Republic);

117.35. Continue the efforts aimed at eliminating all discriminatory treatment based on sexual orientation or gender identity (Argentina);

117.36. Take measures necessary to protect the rights of LGBT persons effectively and investigate and prosecute alleged cases of violence and discrimination against LGBT persons (Netherlands);

117.37. Establish effective mechanisms of dialogue with human rights defenders in the field of sexual minorities (Spain);

118. The following recommendations enjoy the support of Montenegro which considers that they are already implemented:

118.8. Consider amending the Criminal Code so that hate crimes against LGBT persons are considered serious criminal offenses or at least aggravating circumstances (Belgium);

UNITED ARAB EMIRATES

Date of review: Monday, 28 January PM

II. Conclusions and/or recommendations

128. The recommendations formulated during the interactive dialogue will be examined by the United Arab Emirates, which will provide responses in due time, but no later than the 23rd session of the Human Rights Council in June 2013.

128.135. Protect the human rights of all individuals, including LGBT individuals, and take appropriate steps to help ensure that protection is provided to the victim and perpetrators are identified and prosecuted (United States of America);

128.136. Repeal the criminalization of sexual relations between persons of the same sex (Argentina).

ISRAEL

Date of review: Tuesday, 29 January PM

Israel failed to appear before the UPR Working Group. The Human Rights Council adopted a decision agreeing to defer Israel's review to the 17th session of the UPR, at the latest. Read more at <http://www.upr-info.org/+Israel-absent-from-its-own-UPR+.html>

LIECHTENSTEIN

Date of review: Wednesday, 30 January AM

I. Summary of the proceedings of the review process

A. Presentation by the State under review

18. The new law on the registered partnership of same-sex couples also entered into force on 1 September 2011. Registered couples are now treated virtually equally to married couples. This has made an important contribution to overcoming the discrimination and social taboos regarding homosexuality.

B. Interactive dialogue and responses by the State under review

47. Switzerland welcomed efforts by Liechtenstein to uphold the rule of law and its contribution to the International Criminal Court. It expressed appreciation that the two

recommendations it had made during the first UPR cycle on adopting legislation to establish a civil partnership for same-sex couples and introducing the automatic prosecution of domestic violence had been implemented. Switzerland commended Liechtenstein for its plans to consider the legal framework for the voluntary termination of pregnancy.

77. Brazil noted steps to strengthen the legal and institutional framework to counter discrimination and racism and ensure the free movement of persons. However, it expressed concerns over gender equality and over the detention of asylum-seekers solely on grounds of illegal entry, as well as their lack of access to legal aid. It requested to know whether further actions would be taken to promote the rights of the lesbian, gay, bisexual and transgender (LGBT) people.

II. Conclusions and/or recommendations

94. The recommendations will be examined by Liechtenstein which will provide responses in due time, but no later than the 23rd session of the Human Rights Council in June 2013:

94.37. Develop a comprehensive strategy to eliminate discriminatory gender stereotypes (Republic of Moldova);

94.38. Develop a comprehensive strategy to eliminate gender stereotypes and promote gender equality (Brazil);

94.39. Continue pursuing appropriate, efficient policies, including awareness-raising campaigns, to eliminate discriminatory gender stereotypes (Slovakia);

94.70. Take the necessary measures to raise awareness among the population against homophobia, and in general, in favour of the non-discrimination on the basis of sexual orientation, undertaking global public awareness campaigns (Spain).

SERBIA

Date of review: Wednesday, 30 January PM

I. Summary of the proceedings of the review process

A. Presentation by the State under review

11. Criminal legislation does not include "hate crime" as separate criminal offence but it does include a number of other offences that indirectly relate to such offence. Amendments to the Criminal Code in 2012 provide that, when a criminal offence is committed on the grounds of victim's belonging to race or religion, national or ethnic affiliation, particular gender, sexual orientation or gender identity, court is obliged to consider it as an obligatory aggravating circumstance, relevant for determining the sanction, whenever it is not stipulated as a distinctive feature of a criminal offence.

30. Law on Prohibition of Discrimination and Labor Law explicitly prohibit discrimination based on sexual orientation.

31. The Conference "Combating discrimination based on sexual orientation and gender identity" (2012) was the first LGBT conference organized by the State.

B. Interactive dialogue and responses by the State under review

46. Ireland urged Serbia to ensure full implementation of the Criminal Code and the legal protection of all human rights defenders. It was concerned about reports of attacks on and discrimination against the LGBT community, of attacks on journalists and of political control of the media.

48. Japan noted with concern the reports of ongoing violence against women. Japan noted that LGBT parades were not permitted for security reasons. Japan hoped that the rights of persons belonging to vulnerable groups would be adequately protected and promoted.

57. The Netherlands stated that insufficient progress had been made to protect human rights defenders and journalists, referring to the recommendations made by CAT and shown by the EU Progress Report. It also mentioned that freedom of expression and associations for LGBT persons were limited.

58. Norway stated that some minority groups in Serbia were vulnerable to threats and continued to face challenges regarding the exercise of their rights, especially the Roma population and sexual minorities. It recalled the recommendation of the Special Rapporteur regarding human rights defenders.

73. Sweden noted a strengthened anti-discrimination legal framework, but remained concerned about the continued discrimination of LGBT persons. It noted Serbia's efforts to fight corruption but that more would be needed for a sustainable approach to anti-corruption, including further work to ensure independence of prosecution and judiciary.

92. [The delegation of Serbia stated that the] Right of association of LGBT population is observed. According to the Constitution, associations are established freely, without prior approval and entered in relevant register. Secret and paramilitary associations are prohibited.

93. The LGBT community is granted all health insurance-related rights with no obstacles to their access to health care system. Amendments to the Law on Health Insurance (2011) granted the right to sex-change on medical grounds. Serbia is among few countries granting the right to sex-change for medical reasons covered by mandatory health insurance budget.

116. Austria was concerned of extremist groups' attempts to intimidate journalists, human rights defenders through hate speech and asked for information on plans to ensure freedom of expression and association, and adequate protection to LGBT community.

118. Belgium welcomed Serbia's legislation to ensure gender equality, but was concerned that many victims of trafficking and sexual exploitation were juveniles. It asked what measures would be taken in implementing Serbia's global media strategy. It was also concerned by the banning of the "Pride Parade" in 2011 and 2012, adversely affecting LGBT rights.

120. Croatia welcomed Serbia's establishment of a Council for National Minorities, the adoption of the Law on National Councils for National Minorities and the Anti-Discrimination Law. It asked what measures will be implemented to ensure appropriate representation of national minorities in the judiciary, administration and police and to develop a multi-ethnic, multicultural society. It asked Serbia to elaborate on why the fundamental freedoms of LGBT persons cannot be protected, in view of the worrying widespread discrimination against them. It encouraged it to further develop the concept of "hate crime".

121. Brazil noted Serbia's cooperation with the ICTY and its new legislation on the judiciary and asylum. Brazil also noted measures to fight discrimination and protect equality. Brazil asked whether Serbia intended to adopt new measures against sexual discrimination and gender identity.

131. The Czech Republic welcomed Serbian legislation protecting independent journalists and encouraged its implementation. It remained concerned about violence and threats to journalists and the effectiveness in combating domestic violence. It encouraged Serbia to ensure full respect of the rights of the LGBT community.

II. Conclusions and/or recommendations

144. The recommendations formulated during the interactive dialogue listed below have been examined by Serbia and enjoy the support of Serbia:

144.5. Implement mechanisms to follow up UPR recommendations in order to verify the implementation and impact of policies and measures adopted to promote equality of rights and non-discrimination for all citizens, in particular the measures aimed at

vulnerable groups such as women, children, ethnic minorities, the LGBTI community and persons in the situation of disability (Colombia);

144.13. Expand its intervention with the aim of better addressing racial prejudices, xenophobia, hate speeches and other forms of discrimination, in particular against Roma, women, persons with disabilities and the LGBT population (Italy);

144.14. Ensure adequate protection for all citizens, including members of the LGBT community, by, inter alia, allowing them assembly to publicly promote their human rights and identifying and prosecuting those who commit violence against those who participate in peaceful assemblies (United States of America);

144.15. Take concrete steps to protect its LGBTI citizens and their freedom of assembly and expression (Australia);

144.16. Enhance efforts to enable the lesbian, gay, bisexual and transgender (LGBT) community to exercise their fundamental freedoms of expression, association and peaceful assembly (Norway);

144.17. Respond effectively to discrimination and violence against LGBT persons and ensure their safety during public events such as the Belgrade Pride Parade (Austria);

144.18. Establish a more effective mechanism of dialogue with human rights defenders in the area of sexual minorities (Spain).

145. The following recommendations enjoy the support of Luxembourg which considers that they are already implemented or in the process of implementation:

145.23. Take further measures to eliminate discriminatory gender stereotypes (Republic of Moldova);

145.26. Take positive measures to protect and enhance the rights of LGBT persons and facilitate their integration into society (Belgium);

145.27. Put in place a policy of fighting discrimination based on sexual orientation and gender identity that would guarantee the rights of LGBT persons to freedoms of expression, association and peaceful assembly (France);

145.28. Ensure that LGBT persons in Serbia can exercise their human rights freely and in security, including fundamental freedoms such as the freedom of expression and the freedom of assembly and association (Germany);

145.29. Adopt all necessary measures to reduce prejudice and discrimination against the LGBT community, including through the training of the police, prosecutors and judges to respond effectively to violence against LGBT activists and to ensure the adequate protection of LGBT persons in the work place (Ireland);

145.30. Take further steps to protect the LGBT population from intolerance, hate speech, and physical attacks as well as to ensure the better inclusion of the LGBT population and to promote tolerance in this regard (Czech Republic);

145.76. Take steps to protect the right to freedom of assembly and freedom of opinion and expression by ensuring the effective investigation and prosecution of alleged threats and violence by various non-state actors and extremist groups toward individuals and groups, including civil society organizations and individuals based on their sexual orientation (Canada).