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**UN HUMAN RIGHTS COUNCIL**  
**Universal Periodic Review – Fifteenth Session**

## **SUGGESTED RECOMMENDATIONS ON HUMAN RIGHTS ISSUES RELATED TO SEXUAL ORIENTATION AND GENDER IDENTITY**

**All documents referred to can be found on the respective country pages at:**  
<http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>.

Details of recommendations and references to sexual orientation and gender identity during the first cycle can be found at:  
<http://arc-international.net/global-advocacy/universal-periodic-review>

### **Summary**

**(See detailed interventions below, from page 3)**

#### **France**

**Key Issues/Recommendations:** legalise marriage and family rights for same-sex couples, and give consideration to applying the Yogyakarta Principles in reviewing adoption policies, taking into account the best interests of the child; introduce hate crimes legislation on these grounds, as well as public education programs and sensitivity training to promote respect for all persons; legally recognise the self-defined gender identity of all persons without infringement on other rights.

#### **Tonga**

**Key Issues/Recommendations:** review the High Commissioner's report on sexual orientation and gender identity, and consider implementing the recommendations.

#### **Romania**

**Key Issues/Recommendations:** provide education and awareness programmes, including on grounds of sexual orientation and gender identity, to law enforcement, judicial and other authorities; update university listings of medical disorders to remove sexual orientation and gender identity.

#### **Mali**

**Key Issues/Recommendations:** review the High Commissioner's report on sexual orientation and gender identity, and consider implementing the recommendations.

### **Botswana**

**Key Issues/Recommendations:** bring the Penal Code into conformity with the Constitution by providing protection against all forms of discrimination; include sexual orientation and gender identity as grounds for protection in anti-discrimination legislation; legally recognise the self-defined gender identity of all persons without infringement on other rights; provide education and sensitivity training on sexual orientation and gender identity for the judiciary and all other law enforcement officials; take measures to ensure the rights to peacefully organise, associate, assemble and advocate around issues of sexual orientation and gender identity, and to obtain legal recognition for such associations and grounds, without discrimination on the basis of sexual orientation or gender identity; review the report of the UN High Commissioner for Human Rights on sexual orientation and gender identity, and give consideration to implementing the recommendations therein.

### **Bahamas**

**Key Issues/Recommendations:** Consultation with stakeholders to ensure full implementation of accepted recommendations relating to sexual orientation and gender identity. Include sexual orientation and gender identity in antidiscrimination legislation. Amend Article 107(4) of the Penal Code so that it cannot justify the use of force against a person, including killing, in any situations.

### **Burundi**

**Key Issues/Recommendations:** ensure that no one is discriminated against on any grounds, including on the grounds of sexual orientation and gender identity, and that these grounds be included for protection in any anti-discrimination legislation; provide education and awareness raising sessions on these issues to police and all other law enforcement officials; review the report of the UN High Commissioner for Human Rights on sexual orientation and gender identity, and give consideration to implementing the recommendations therein.

### **Luxembourg**

**Key Issues/Recommendations:** include gender identity as a ground for protection in all anti-discrimination legislation; legally recognise the self-defined gender identity of all persons without infringement on other rights; apply the Yogyakarta Principles as a guide to policy development.

### **Barbados**

**Key Issues/Recommendations:** ensure that sexual orientation and gender identity are included as grounds for protection in any anti-discrimination legislation; provide education and awareness-raising sessions on human rights relating to sexual orientation and gender identity to police and other law enforcement officials; review the report of the UN High Commissioner for Human Rights on sexual orientation and gender identity, and give consideration to implementing the recommendations therein.

### **Montenegro**

**Key Issues/Recommendations:** ensure that the Ombudsman and his office are provided with the human, technical and financial resources to implement the anti-discrimination law; consider introducing hate crimes legislation on grounds of sexual orientation or gender identity, as well as to public education programs and sensitivity training to promote respect for all persons, including on these grounds; protect the rights to peaceful assembly and association on grounds relating to sexual orientation or gender identity, and ensure that adequate police and other physical protection against violence or harassment is afforded to persons exercising these rights; take all measures to ensure enjoyment of the right to the highest attainable standard of health, including mental health.

### **United Arab Emirates**

**Key Issues/Recommendations:** review the High Commissioner's report on sexual orientation and gender identity, and consider implementing the recommendations.

## Israel

**Key Issues/Recommendations:** adopt appropriate legislative and other measures to prohibit and eliminate discrimination on all grounds; in its responses to discrimination on the basis of sexual orientation or gender identity, take account of the manner in which such discrimination may intersect with other forms of discrimination; consider applying the *Yogyakarta Principles* to assist policy making in this regard.

## Liechtenstein

**Key Issues/Recommendations:** take all necessary legislative, administration and other measures to ensure the right to found a family, including through access to adoption or assisted procreation, without discrimination on the basis of sexual orientation or gender identity; consider applying the *Yogyakarta Principles* to assist policy making in this regard.

## Serbia

**Key Issues/Recommendations:** protect the rights to peaceful assembly and association on grounds relating to sexual orientation or gender identity, and ensure that adequate police and other physical protection against violence or harassment is afforded to persons exercising these rights; introduce hate crimes legislation on these grounds, as well as public education programs and sensitivity training; ensure the right to recognition before the law of each person's self-defined gender identity, without infringement of other human rights; recognise unmarried same-sex couples on an equal basis to unmarried opposite-sex couples before the law, and ensure the right to found a family without discrimination on the basis of sexual orientation or gender identity.

## **FRANCE**

Date of review: Monday, 21 January AM

**Key Issues/Recommendations:** legalise marriage and family rights for same-sex couples, and give consideration to applying the *Yogyakarta Principles* in reviewing adoption policies, taking into account the best interests of the child; introduce hate crimes legislation on these grounds, as well as public education programs and sensitivity training to promote respect for all persons; legally recognise the self-defined gender identity of all persons without infringement on other rights.

**Sample Intervention:** We welcome France's commitment to equality and non-discrimination on all grounds, including on the grounds of sexual orientation and gender identity. However we note that stakeholders have made some suggestions to improve rights in this regard. We recommend that France **legalise marriage and family rights for same-sex couples, and give consideration to applying the Yogyakarta Principles in reviewing adoption policies, taking into account the best interests of the child.**

We note that stakeholders have expressed concerns about hate crimes and harassment directed against individuals, including on the basis of sexual orientation and gender identity. We recommend that **consideration be given to introducing hate crimes legislation on these grounds, as well as to public education programs and sensitivity training to promote respect for all persons, including on the grounds of sexual orientation or gender identity.**

We further recommend that France **legally recognise the self-defined gender identity of all persons without infringement on other rights.**

## Previous cycle

**Documents** – The national report stated that discrimination based on sexual orientation was prohibited under the European Charter of Fundamental Rights, and that France was committed to combating all forms of discrimination. The summary of stakeholders' information noted that gender identity was not a recognized ground of discrimination under French law.

**Discussions** – There were no references to human rights issues relating to sexual orientation or gender identity during the working group review, nor during the report adoption at the HRC plenary session. No relevant recommendations were made to France on these issues.

## National report

### **II. Amélioration du cadre normatif et structurel de protection des droits de l'homme**

#### **D. La création du Ministère des Droits des femmes**

16. Un Ministère des Droits des femmes a été instauré le 24 mai 2012 à l'occasion de la formation d'un nouveau gouvernement après l'élection présidentielle de mai 2012. Il prépare et met en œuvre la politique du Gouvernement relative aux droits des femmes, à la parité et à l'égalité professionnelle. Il est chargé de promouvoir les mesures destinées à faire respecter les droits des femmes dans la société, à faire disparaître toute discrimination à leur égard et à accroître les garanties d'égalité dans les domaines politique, économique, professionnel, éducatif, social, sanitaire et culturel. Dans ces domaines, il prépare, avec les autres ministères compétents, les mesures visant à assurer le respect des droits des femmes, la protection effective des femmes victimes de violence et la lutte contre le harcèlement.

17. La Ministre des droits des femmes va lancer «un plan d'action interministériel» en matière d'égalité hommes-femmes dans le secteur public qui sera présenté le 24 octobre 2012.

18. Ce Ministère est également chargé d'animer la coordination du travail gouvernemental contre les violences et les discriminations homophobes, lesbophobes et transphobes. Il prépare un plan d'action dans cette perspective.

### **III. Promotion et protection des droits de l'homme**

#### **A. La lutte contre les discriminations raciales, la xénophobie et l'antisémitisme**

##### **2. La répression des discriminations**

29. Chaque parquet des tribunaux français dispose d'un pôle anti discrimination dont la compétence recouvre 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. L'objectif est de confier à un magistrat spécialisé le traitement de l'ensemble de ces infractions et de favoriser les échanges entre les parquets, les associations notamment au niveau local et les représentants des communautés religieuses.

## Compilation of UN information

No references to sexual orientation or gender identity

## Summary of stakeholders' information

### **II. Information provided by other stakeholders**

#### **C. Implementation of international human rights obligations**

##### **1. Equality and non-discrimination**

29. The IDAHO Committee (C-IDAHO) emphasized the Government's commitment to the achievement of equality of rights for LGBT persons through, among other things, the legalization of same-sex marriage and filiation rights. Many issues remained to be addressed, however, such as those relating to transgender persons and repeated cases of suicide by young homosexuals and of unsolved homophobic and transphobic murders.

## TONGA

Date of review: Monday, 21 January PM

**Key Issues/Recommendations:** review the High Commissioner's report on sexual orientation and gender identity, and consider implementing the recommendations.

**Sample Intervention:** We welcome Tonga's commitment to equality and non-discrimination on all grounds. We note that Tonga continues to maintain laws which criminalise same-sex conduct between consenting adults, a matter which attracted considerable attention during the first UPR cycle. We recommend that Tonga **review the report of the UN High Commissioner for Human Rights on Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, and give consideration to implementing the recommendations therein.**

### Previous cycle

**Recommendations made:** to amend legal dispositions and decriminalize sexual activity between consenting adults; to amend its criminal laws so that sexual activity between consenting adults is not a criminal offence; to decriminalize consensual same-sex activity between adults; to continue to criminalize consensual same sex.

**Status of recommendations:** rejected.

### National report

Not yet available

### Compilation of UN information

No references to sexual orientation or gender identity.

### Summary of stakeholders' information

No references to sexual orientation or gender identity.

## ROMANIA

Date of review: Tuesday, 22 January AM

**Key Issues/Recommendations:** provide education and awareness programmes, including on grounds of sexual orientation and gender identity, to law enforcement, judicial and other authorities; update university listings of medical disorders to remove sexual orientation and gender identity.

**Sample Intervention:** We welcome Romania's commitment to equality and non-discrimination on all grounds, and the fact that it accepted all recommendations relating to sexual orientation and gender identity during the first UPR cycle. However, we note that **stakeholders have expressed concern about insufficient implementation of these accepted recommendations**, and persistent discrimination on the grounds of sexual orientation and gender identity, including by members of the police. We recommend **that education and awareness programmes, including on grounds of sexual orientation and gender identity, be provided to law enforcement, judicial and other authorities.**

We also note with concern that homosexuality remains listed under personality and behaviour disorders in the textbooks of medical universities. We recommend **that Romania update university listings of medical disorders to remove sexual orientation and gender identity.**

## Previous cycle

**Recommendations made:** to launch an awareness raising programme on protection of enjoyment of human rights by persons of minority sexual orientation and gender identity for law enforcement personnel as part of a wider comprehensive campaign to prevent and punish any acts of ill-treatment in detention against persons perceived as belonging to these groups; to take additional measures to fight discrimination against minorities, including the Roma population, as well as homosexuals; to continue the adoption of measures, including awareness raising programmes, against negative prejudices and discrimination against people living with HIV and sexual minorities; to investigate and prosecute those responsible for the attacks on peaceful lesbian and gay activists and ensure that future LGBT gatherings, including the annual GayFests, are both permitted and protected by the Romanian authorities.

**Status of recommendations:** accepted.

## National report

### **III. Progress in the field of human rights protection and promotion**

#### **A. Equality and protection against any discrimination**

49. Since 2010, the Institute of Studies for Public Order has developed a partnership with ACCEPT ASSOCIATION- the first Romanian non-governmental organization that defends and promotes the rights of LGBTs (lesbians, gays, bisexuals, transgenders) at the national level. As a result, two ISPO trainers took part in a training programme dealing with combating intolerance and discrimination towards persons and groups on the grounds of sexual orientation and gender identity. ACCEPT Association offered ISPO didactic materials, flyers and brochures regarding issues of sexual orientation, gender identity and hate crimes against LGBTs. These materials are used during the training sessions (basic training programmes for police officers) which are held in ISPO and to which 660 police officers participated from 2011 up to present.<sup>6</sup>

50. During 2010–2011, within the new Strategy in the field of Equal Opportunities between Women and Men for 2010-2012, reunions and meetings were organized, as well as debates on themes such as equal participation of women and men in the decision making process, eliminating gender stereotypes, the role of women in rural areas, the reduction of the gender pay gap. A various palette of participants, such as representatives of social partners, central public administration, NGO's and citizens, attended the events.<sup>7</sup>

51. With regard to **recommendation 8**, the Romanian authorities at the level of Police units took measures to prevent and counter the antisocial acts against the members of the LGBT community, being interested in training its staff in the field of modern methods used at European level in countering discrimination based on sexual orientation, in order to contribute to a viable partnership between police and sexual minorities.

52. Thus, there is good collaboration between the General Directorate of the Bucharest Municipality Police (GDBMP) and the aforementioned ACCEPT Association, representative of the LGBT community.<sup>8</sup>

6. Training activities for police officers were organised regarding the subject of recognition and monitoring of hate crimes against LGBT, introduction in the problematic of LGBT, discrimination based on sexual orientation and/or gender, discrimination and victims' needs (focus on the respect of individuals' rights).

In terms of protecting the rights of sexual minorities, the Romanian Gendarmerie applies measures which aim to deter and limit violence against sexual minorities, and to provide their necessary protection during Gay Fest rallies.

In this context, Romanian Gendarmerie developed the training curriculum of its personnel in order to better respond to a more appropriate behaviour in respect to the rights of sexual minorities, both on the national soil and in international operations, by inserting related courses/themes in its training centres and operational unit syllabus.

7. The Directorate of Equal Opportunities between women and men within the Ministry of Labour, Family and Social Protection (MLFSP) is partner with Media One Agency in the structural fund financed project "The Chance". Caravans called "The Week of equal opportunities" were organized in all development regions, focused on combating all forms of gender discrimination concentrating on reconciliation of family and professional life. In 2011, the Directorate of Equal Opportunities between women and men conducted an analysis on the situation of women and men in decision-making positions for public administration.
8. As a result of this cooperation, training courses have been organised, jointly with the Danish Institute for Human Rights, during which were discussed issues related to identification and tackling hate crimes against the LGBT members. The courses were attended by officers from police stations in whose area or areas of competence are locations visited by members of the LGBT community. The police staff training in the field of prevention and countering discrimination against sexual minorities and hate crimes against LGBT community's members shall continue to remain a priority of the Romanian Police, in order to insure a viable partnership between the police institution and sexual minorities. Both prior to and during the organisation of the events involving members from the LGBT community in Romania, the GDBMP undertakes security measures to ensure the proper running of such events and to prevent the emergence of any risk factors oriented towards the participants, all these actions being taken in cooperation with the event's organizers.  
As an example, on 4 June 2011, approximately 150 persons participated in the annual "March of Diversity" gay pride parade in Bucharest. Local authorities mobilized numerous police to protect the participants, and the parade ended without violent incidents, as it was the case for the last 4 years. In 2009, the National Council for Combating Discrimination was the official partner at the GayFest. This event enjoyed the presence of several ambassadors in Romania in the last years and the involvement of public persons and artists in promoting the event.

## **Compilation of UN information**

There were no references to sexual orientation or gender identity.

## **Summary of stakeholders' information**

### **C. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

#### **1. Equality and non-discrimination**

11. Concerning the implementation of the 2008 UPR recommendation no. 4, JS4 stated that the Government did not take preventive measure to fight discrimination against homosexuals, including awareness raising programmes. It reported that no activity was carried out to address discrimination on the ground of sexual orientation in the framework of the 2007-2013 National Strategy for Implementing Measures on Preventing and Combating Discrimination. JS4 indicated that homosexuals remained one of the most discriminated groups. It further noted lack of awareness about and prejudices against sexual minorities among police forces and cases of harassment by or lack of response from law enforcement officers when asked to provide protection to victims of homophobic violence. JS4 reported that Romania did not provide training on respect of diversity and LGBT issues for law enforcement bodies, as requested by the 2008 UPR recommendation no.3. Similarly, JS4 noted that no training on diversity and non-discrimination was provided for health care professionals as requested by the 2008 recommendations no. 28. JS4 noted that homosexuality remained listed under personality and behaviour disorder in the textbooks of medical universities.

#### **4. Right to privacy, marriage and family life**

33. JS4 stated that the 2011 Civil Code introduced a restrictive definition of family - a man and a woman united by marriage - compared to the previous definition formulated in gender-neutral terms. It added that the Code prohibited same-sex marriage and did not recognize same-sex marriages and civil partnerships contracted abroad.

### **MALI**

Date of review: Tuesday, 22 January PM

**Key Issues/Recommendations:** review the High Commissioner's report on sexual orientation and gender identity, and consider implementing the recommendations.

**Sample Intervention:** We welcome Mali’s commitment to equality and non-discrimination on all grounds. In keeping with this commitment, we recommend that Mali **review the report of the UN High Commissioner for Human Rights on *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity*, and give consideration to implementing the recommendations therein.**

## Previous cycle

There were no references or recommendations on human rights issues relating to sexual orientation or gender identity throughout the UPR of Mali.

## Input reports

There were no references to sexual orientation or gender identity in the National report, the compilation of UN information or the summary of stakeholder information.

## **BOTSWANA**

Date of review: Wednesday, 23 January AM

**Key Issues/Recommendations:** bring the Penal Code into conformity with the Constitution by providing protection against all forms of discrimination; include sexual orientation and gender identity as grounds for protection in anti-discrimination legislation; legally recognise the self-defined gender identity of all persons without infringement on other rights; provide education and sensitivity training on sexual orientation and gender identity for the judiciary and all other law enforcement officials; take measures to ensure the rights to peacefully organise, associate, assemble and advocate around issues of sexual orientation and gender identity, and to obtain legal recognition for such associations and grounds, without discrimination on the basis of sexual orientation or gender identity; review the report of the UN High Commissioner for Human Rights on sexual orientation and gender identity, and give consideration to implementing the recommendations therein.

**Sample Intervention:** We welcome Botswana’s commitment to equality and non-discrimination on all grounds, and the statement by the Honourable Minister of Defence, Justice and Security during the high-level segment at the Human Rights Council last year, calling for further dialogue and exchanges of views on human rights issues including sexual orientation. We note that Article 164 of the Criminal Code penalises consensual sexual relations between consenting adults. We recommend that **the Penal Code be brought into conformity with the Constitution** which provides protection against all forms of discrimination. We further recommend that Botswana **include sexual orientation and gender identity as grounds for protection in anti-discrimination legislation.**

We further note that stakeholders are concerned about the rights of transgender persons to access documents that reflect their self-defined gender. We recommend that Botswana **legally recognise the self-defined gender identity of all persons without infringement on other rights.** We further recommend that Botswana **provide education and sensitivity training on sexual orientation and gender identity for the judiciary and all other law enforcement officials.**

We are concerned that Lesbians, Gays and Bisexuals of Botswana (LEGABIBO), an organisation which has, since 1998, been advocating for the rights of lesbians, gays and bisexuals, has been denied registration by the Department of Civil and National Registration. The department has made reference to the Penal Code. We recommend that Botswana **take all necessary legislative, administrative and other measures to ensure the rights to peacefully organise, associate, assemble and advocate around issues of sexual orientation and**

**gender identity, and to obtain legal recognition for such associations and grounds, without discrimination on the basis of sexual orientation or gender identity.**

Finally, we recommend that Botswana **review the report of the UN High Commissioner for Human Rights on *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity*, and give consideration to implementing the recommendations therein.**

## **Previous cycle**

**Recommendations made:** to adopt the measures necessary to combat discrimination of all kinds, including those based on sexual orientation, gender, colour, religion and political opinion; to decriminalize homosexual relations and practices/consensual same-sex activities between adults; to outlaw discrimination on the basis of sexual orientation; with regard to consensual same-sex activity between adults, to take measures to promote tolerance and allow effective educational programmes on HIV/AIDS prevention.

**Status of recommendations:** rejected.

## **National report**

There were no references to sexual orientation or gender identity.

## **Compilation of UN information**

There were no references to sexual orientation or gender identity.

## **Summary of stakeholders' information**

### **C. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

#### **4. Right to privacy**

24. CHRI stated that Article 164 of Botswana's penal code criminalized any person who has "carnal knowledge" of another which is "against the order of nature", while Article 167 criminalized gross indecency committed in public or in private. CHRI stated that a 2003 court judgment affirmed that these provisions effectively prohibited same-sex relations and was applicable to lesbian sexual activity. CHRI made recommendations including the repealing of articles 164 and 167 of the penal code.

25. CHRI stated that the criminalization of same-sex conduct was incompatible with Botswana's obligations under articles 17 and 26 of the International Covenant on Civil and Political Rights. It added that statements made by political leaders were at odds with these obligations. Also, religious leaders fuelled discrimination and homophobia. In this regard, CHRI stated that The Evangelical Fellowship of Botswana published a statement in a national newspaper condemning the actions of civil society that advocated for the decriminalisation of homosexuality.

26. JS 1 stated that transgendered persons experienced difficulties in obtaining documents reflecting their changed gender identity following transition from one gender to another. While the changing of one's name was permissible under the law, there was no legislation specifically addressing a change of identity.

27. JS 1 stated that transsexual applicants were required to submit to the court, a medical report concerning their sexual identity. This report must be approved by the Ministry of Health. The ignorance of civil servants and members of the judiciary about transgendered persons resulted in the process being unnecessarily prolonged.

## BAHAMAS

Date of review: Wednesday, 23 January PM

**Key Issues/Recommendations:** Consultation with stakeholders to ensure full implementation of accepted recommendations relating to sexual orientation and gender identity. Include sexual orientation and gender identity in antidiscrimination legislation. Amend Article 107(4) of the Penal Code so that it cannot justify the use of force against a person, including killing, in any situations.

**Sample Intervention:** We welcome the Bahamas' commitment to equality and non-discrimination on all grounds, and the fact that it accepted recommendations relating to sexual orientation and gender identity during the first UPR cycle. However we note that stakeholders have expressed concerns about rights relating to sexual orientation and gender identity and regarding the implementation of the recommendation to consider specific measures to promote tolerance and non-discrimination on these grounds. **Could the Bahamas describe what measures have been taken to implement this recommendation from the first cycle? We recommend renewed consultations with stakeholders to ensure full implementation of these accepted recommendations. We recommend that sexual orientation and gender identity be included as grounds in antidiscrimination legislation.**

Finally, we recommend that **Article 107(4) of the Penal Code be amended so that it cannot justify the use of force against a person, including killing, in any situations.**

### Previous cycle

**Recommendation made:** to continue its efforts to combat all forms of discrimination and consider specific measures in order to promote tolerance and non discrimination on the grounds of sexual orientation.

**Status of recommendation:** accepted.

### National report

#### **III. Promotion and protection of human rights in The Bahamas**

##### **B. Children**

##### **Education and curricula**

61. The Family Life and Health Education (FLHE) Curriculum and the Civics Curriculum promote teaching and learning experiences that focus on the rights and privileges of individuals and groups in society as members of the family, community and citizenry.

62. The Primary HFLE Curriculum is based on the CARICOM HFLE Regional Framework and is divided into four themes: Self and Interpersonal Relationships, Sexuality and Sexual Health, Nutrition and Physical Activity and Managing the Environment. Similar themes are explored in the Civics and Family and Consumer Sciences curriculum in our Junior High and Secondary Schools.

### Compilation of UN information

There were no references to sexual orientation or gender identity.

### Summary of stakeholders' information

#### **I. Information provided by stakeholders**

##### **A. Background and framework**

##### **2. Constitutional and legislative framework**

4. AI recommended to repeal all provisions that discriminate against persons on grounds of their sexual orientation, including in the Domestic Violence (Protection Orders) Act (2007), the Sexual Offences and Domestic Violence Act, and the Penal Code; to include sexual orientation in Article 26 (3) of the Constitution and Article 6 of the Employment Act (2001) as a basis for protection from discrimination.

### **3. Institutional and human rights infrastructure and policy measures**

5. AI recommended that the Bahamas establish and implement policies and initiatives to address discrimination based on sexual orientation or gender identity. It noted that negative impact of the legal framework on the daily discrimination suffered by lesbian, gay, bisexual and transgender persons in the Bahamas is reinforced by the lack of policies and initiatives from the authorities to address homophobia in the country.

## **C. Implementation of international human rights obligations**

### **1. Equality and non-discrimination**

8. AI noted that the Bahamas accepted an UPR recommendation to combat all forms of discrimination and to consider specific measures to promote tolerance and non-discrimination on the grounds of sexual orientation. To AI's knowledge, the Bahamas has not taken action to combat discrimination based on sexual orientation and has not included sexual orientation as a basis of non-discrimination in its Constitution.

9. AI noted that despite the Bahamas supporting a recommendation to combat all forms of discrimination and to consider specific measures in order to promote tolerance and non-discrimination on the grounds of sexual orientation together with other positive steps, the authorities have failed to translate these into concrete policies at the national level. In particular, AI regretted that sexual orientation is not included in Article 26 (3) of the Constitution as a basis of non-discrimination. Similarly, it regretted that protection against discrimination in the workplace on grounds of sexual orientation has not been addressed. It was also noted that a number of laws in the Bahamas continue to expressly discriminate against lesbian, gay, bisexual and transgender persons and to entrench stigma against this community. Article 2 of the Domestic Violence (Protection Orders) Act (2007) omits same-sex couples from the protection of this legislation by indicating that the term "partner" only refers to "a party to a common relationship between a man and a woman". In doing so, the law not only fails to protect same-sex couples from domestic violence, but also risks reinforcing the stigma attached to same-sex couples.

### **2. Right to life, liberty and security of the person**

12. AI noted that Article 107 (4) of the Penal Code justifies the use of force against a person, even killing, in different situations of "extreme necessity", including "forcible unnatural crime". AI was extremely concerned by the recent judgements by national courts in the Bahamas and the interpretation of the current law by judges to justify murders due to supposed "advances of homosexual nature".

## **BURUNDI**

Date of review: Thursday, 24 January AM

**Key Issues/Recommendations:** ensure that no one is discriminated against on any grounds, including on the grounds of sexual orientation and gender identity, and that these grounds be included for protection in any anti-discrimination legislation; provide education and awareness raising sessions on these issues to police and all other law enforcement officials; review the report of the UN High Commissioner for Human Rights on sexual orientation and gender identity, and give consideration to implementing the recommendations therein.

**Sample Intervention:** We welcome Burundi's commitment to equality and non-discrimination on all grounds. We note that during its first UPR, the delegation of Burundi requested more time to respond to recommendations urging the decriminalisation of sexual relations between consenting adults of the same sex. We recommend that Burundi **review the report of the UN High Commissioner for Human Rights on Discriminatory laws and practices and**

***acts of violence against individuals based on their sexual orientation and gender identity, and give consideration to implementing the recommendations therein.***

We further recommend that Burundi **ensure that no one is discriminated against on any grounds, including on the grounds of sexual orientation and gender identity, and that these grounds be included for protection in any anti-discrimination legislation.**

Finally, we further recommend that Burundi **provide education and awareness-raising sessions on these issues to police and all other law enforcement officials.**

## **Previous cycle**

**Recommendations made:** to extend the protection against discrimination and ensure that no one is subject to discrimination on the basis of sexual orientation, bearing in mind the universality of human rights and the recommendation of the Human Rights Committee on the right to privacy and non discrimination; to reconsider the inclusion in the draft criminal code of the provision criminalizing same-sex sexual relations, in conformity with Burundi's obligations to ensure non-discrimination and the right to privacy.

**Status of recommendations:** no clear position.

## **National report**

There were no references to sexual orientation or gender identity.

## **Compilation of UN information**

### **I. Background and framework**

#### **B. Constitutional and legislative framework**

4. With regard to the adoption of the criminal code, the High Commissioner indicated that homosexuality was criminalized and recommended repealing this provision. In April 2009, the Special Rapporteur on the situation of human rights defenders, together with the Independent Expert on the situation of human rights in Burundi and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an urgent appeal concerning a provision of the draft criminal code criminalizing homosexuality. They also expressed their concerns about this bill in an urgent appeal in December 2008. They added that, during the universal periodic review in December 2008, the Government had been questioned about the criminalization of homosexuality and had requested more time to respond adequately. The Special Rapporteurs and the Independent Expert had urged the President of Burundi not to pass the draft criminal code in its current form.

## **Summary of stakeholders' information**

### **I. Information provided by other non-accredited national human rights institutions and other stakeholders**

#### **A. Background and framework**

#### **2. Constitutional and legislative framework**

3. AI and Joint Submission 2 (JS2) stated that, in 2009, a Penal Code was promulgated which abolishes the death penalty and criminalizes genocide, war crimes, crimes against humanity, torture and other cruel, inhuman and degrading treatment. However, AI, JS2, Joint Submission 3 (JS3) and Human Rights Watch (HRW) were concerned that, despite the 2008 Universal Periodic Review (UPR) recommendation, the Penal Code also criminalizes same-sex relations. JS2 and JS3 considered that Burundi should repeal criminalization of homosexuality.

#### **C. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

## 1. Equality and non-discrimination

17. HRW indicated that Lesbian, Gay, Bisexual and Transgender (LGBT) had reported that the criminalization of same sex relations in 2009 had increased stigma and made LGBT less likely to seek assistance when they are victims of crimes, and more vulnerable to extortion. It added that an education policy adopted in 2011 further entrenched discrimination on the basis of sexual orientation as, according to it, on the basis of "homosexuality" students could be expelled for a year and denied admission into any school.

18. JS3 expressed the same concerns and added that discrimination against LGBT was even more pronounced in rural areas because of social pressure and stereotypes.

## 4. Freedom of expression, association and peaceful assembly, and right to participate in public and political life

55. JS3 reported the pressure brought to bear on the organization MUCO because of its work to uphold the rights of LGBT.

### LUXEMBOURG

Date of review: Thursday, 24 January PM

**Key Issues/Recommendations:** include gender identity as a ground for protection in all anti-discrimination legislation; legally recognise the self-defined gender identity of all persons without infringement on other rights; apply the Yogyakarta Principles as a guide to policy development.

**Sample Intervention:** We welcome Luxembourg's commitment to equality and non-discrimination on all grounds, including on the basis of sexual orientation and gender identity. We recommend that **Luxembourg include gender identity as a ground for protection in all anti-discrimination legislation.** We further recommend that Luxembourg **legally recognise the self-defined gender identity of all persons without infringement on other rights.** Finally, **we recommend that Luxembourg apply the Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity** as a guide to assist with policy development in this area.

## [Previous cycle](#)

**Documents** – The national report highlighted that same-sex couples can register their partnership in Luxembourg and that a draft law had been tabled aiming to offer legal security and transparency to the partners, to their children and to third parties, and to secure recognition in Luxembourg for partnerships validly declared and concluded abroad through registration in the civil registry. The report further mentioned an awareness campaign directed at youth in Luxembourg to tackle discrimination, including that based on sexual orientation.

**Discussions** – There were no references to human rights issues relating to sexual orientation or gender identity during the Working Group review, nor during the report adoption at the HRC plenary session. No relevant recommendations were made to Luxembourg on these issues.

## [National report](#)

### II. Thematic analysis

#### F. Rights of the child

44. In 2010, the Act of 9 July 2004 on the legal effects of certain partnerships, which offers persons of the same sex or of opposite sexes wishing to live together the possibility of declaring a partnership with the registrar was reinforced to provide greater legal security and transparency to the partners, their children and third parties. While the law does not prevent simple adoption by a person belonging to a partnership, full adoption is possible only for spouses who are not judicially separated.

47. A bill to amend the provisions in respect of marriage was introduced in 2012, and is currently being discussed in parliament. In particular, it makes provision for marriage between persons of the same sex and reforms adoption so as to:

- Authorize simple adoption by two married persons of the same sex
- Set the age requirement for both adoptive parents at 25 years
- Extend the possibility of adopting a spouse's child ("Stiefkindadoption") to encompass the adoption of a partner's child
- Revoke the possibility of adoption at the request of the adoptee when the conditions authorizing "Stiefkindadoption" are no longer met
- Make capacity for discernment rather than a predetermined age the condition for minors to give consent

#### **M. Combating all forms of discrimination and related intolerance**

115. Integration policy in Luxembourg is coordinated by the Luxembourg Reception and Integration Agency (OLAI). Efforts to combat discrimination based on ethnic or racial origin, religion or beliefs, disability, age or sexual orientation are a key component and integral part of the Agency's policy for welcoming and integrating immigrants.

#### **Compilation of UN information**

There were no references to sexual orientation or gender identity.

#### **Summary of stakeholders' information**

There were no references to sexual orientation or gender identity.

### **BARBADOS**

Date of review: Friday, 25 January AM

**Key Issues/Recommendations:** ensure that sexual orientation and gender identity are included as grounds for protection in any anti-discrimination legislation; provide education and awareness-raising sessions on human rights relating to sexual orientation and gender identity to police and other law enforcement officials; review the report of the UN High Commissioner for Human Rights on sexual orientation and gender identity, and give consideration to implementing the recommendations therein.

**Sample Intervention:** We welcome Barbados' commitment to equality and non-discrimination on all grounds. However, we note that the Penal Code continues to criminalise sexual relations between consenting adults of the same sex. The UN High Commissioner for Human Rights and UNDP have expressed specific concern about discrimination against individuals on the grounds of sexual orientation and gender identity.

**We recommend that Barbados tackle discrimination on these grounds, and ensure that sexual orientation and gender identity are included as grounds for protection in any anti-discrimination legislation.**

We further recommend that Barbados **provide education and awareness-raising sessions on human rights relating to sexual orientation and gender identity to police and other law enforcement officials.**

Finally, we recommend that **Barbados review the report of the UN High Commissioner for Human Rights on *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity*, and give consideration to implementing the recommendations therein.**

## Previous cycle

**Recommendations made:** to bring its criminal laws on criminalization of consenting relations between adults of the same sex, and on offences of indecent assault and serious indecency that are defined vaguely, into line with international norms with respect to privacy and non-discrimination; to decriminalize consensual sexual acts between adults of the same sex; to take measures to promote tolerance in this regard, which would encourage more effective educational programmes for the prevention of HIV/AIDS; to take all necessary actions to protect homosexuals from harassment, discrimination and violence; to consider introducing specific legislation and additional policy measures to promote tolerance and non-discrimination of lesbians, gays, bisexuals and transsexuals.

**Status of recommendations:** rejected.

## National report

### **Combating domestic violence**

73. The Government remains firmly committed to pursuing a policy of zero tolerance to all forms of violence against women. To this end, interventions at the legislative, programmatic and educational level have been instituted.

74. In relation to the legislation, a reform committee was established by the Bureau of Gender Affairs to review the existing Domestic Violence Protection Orders Act in order to address the gaps in the legislation and ensure that all victims are protected. The Committee has completed its deliberations and has made a number of recommendations. These include the need for a preamble to the legislation to speak to its purpose and for the principles of respect for human rights, non-discrimination, equity, the best interest of the child, a gender sensitive and victim-centred approaches to be all embedded in the legislation. It was also recommended that the amended Act should provide a comprehensive definition of domestic violence to include not only physical abuse but also sexual, psychological and financial abuse. Moreover, it was recommended that category of persons who could find relief under the Act should be expanded to include persons who are dependent because of physical or mental impairment and other intimate relationships regardless of sexual orientation. These recommendations have been incorporated into a Cabinet paper for Cabinet's consideration.

## Compilation of UN information

### **B. Constitutional and legislative framework**

5. UNDP noted that the legal system of Barbados was based on a model in which fundamental rights and freedoms contained in the Constitution generally reflected political and civil rights. However, the existing legal order did not include more recent notions of discrimination (gender, race, sexual orientation, for example), grave human rights abuses such as torture, and social and economic rights expressed in international human rights treaties.

7. The United Nations High Commissioner for Human Rights urged the Government to step up its efforts to incorporate international human rights law into national legislation, including by establishing legislative definitions of discrimination based on gender, race or sexual orientation. In addition, Barbados had to ensure that laws conform to international norms and that they are adequately implemented and translated into action.

## **2. Responses to specific follow-up requests by treaty bodies**

### Concluding observations

<i>Treaty body</i>	<i>Due in</i>	<i>Subject matter</i>	<i>Submitted in</i>
CERD	2006	Legal definition of racial discrimination; and withdrawal of reservations.	-

### **C. Cooperation with the Office of the High Commissioner for Human Rights**

25. The High Commissioner offered assistance in addressing persisting problems that Barbados needed to tackle, including citizen security; sensitizing civil society to discrimination against women, discrimination against the disabled, and discrimination based on sexual orientation or gender identity; developing programmes for human rights education and conducting campaigns to raise awareness of issues such as domestic violence and corporal punishment; and undertaking efforts to put an end to violence against women and sexual harassment.

### **III. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

#### **A. Equality and non-discrimination**

26. The High Commissioner for Human Rights noted that discrimination needed to be tackled. She noted that international human rights law was clear: no one should be discriminated against because of the group they belong to, including on the grounds of race, gender or sexual orientation or identity. She added that, while that may be unpopular with some segments of the population, it was the responsibility of Governments to show firm leadership on issues relating to all forms of discrimination.

27. UNDP noted that the police in Barbados had been denounced as discriminatory in its treatment of victims when those victims were women; lesbian, gay, bisexual and transgender (LGBT) persons; migrants; and minorities. However, the stigmatization of people living with HIV/AIDS and discrimination against LGBT people was not limited to the actions of the police, but constituted a phenomenon that called for attention as a specific human rights concern.

## **Summary of stakeholders' information**

### **I. Information provided by other stakeholders**

#### **A. Background and framework 1. Scope of international obligations**

1. Amnesty International (AI) noted that during the first Universal Periodic Review of Barbados in December 2008, it rejected nearly half the recommendations made by reviewing States, including a number of important ones relating to ratification of international human rights treaties, children, and the rights of lesbian, gay, bisexual and transgender people.

#### **3. Institutional and human rights infrastructure and policy measures**

AI recommended establishing and implementing policies and initiatives to address discrimination, prejudice and violence based on sexual orientation or gender identity.

#### **4. Right to privacy, marriage and family life**

22. AI noted that consensual same-sex conduct is criminalized in Barbados. Section 9 of the Sexual Offences Act criminalizes "buggery" making it punishable with life imprisonment. AI noted that a person committing an act of serious indecency towards a person of 16 years of age or more is liable on conviction to imprisonment for a term of 10 years according to section 12 of the same law. The vague definition of this crime and the use of the word "unnatural" in the definition, allows this provision to be used to target and prosecute LGBT people and people engaging in consensual same-sex conduct. These provisions entrench discrimination in the law and foster stigmatization of, and prejudice against, LGBT people throughout society. The existence of laws criminalizing consensual same-sex leads to a reluctance amongst lesbian, gay, bisexual and transgender people to undergo HIV testing and to access other HIV/AIDS services.

23. AI recommended the repeal of all provisions that criminalize consensual same-sex conduct, including in the Sexual Offences Act and the acknowledgment that LGBT persons are at risk of greater discrimination, prejudice and violence because of the existence of laws criminalizing consensual same-sex activity.

24. AI regretted that Barbados rejected recommendations made by reviewing States during the UPR, intended to ensure that Barbados adheres to its international human rights obligations to lesbian, gay, bisexual and transgender people, decriminalize consensual sexual acts between adults of the same sex, and take all necessary action to protect LGBT people from harassment, discrimination and violence. AI reminded that by continuing to criminalize consensual same-sex conduct the Barbadian government is violating its international obligations under human rights treaties to which it is a party and recommended that the Government ensure that the broader public understands that human rights must be guaranteed regardless of sexual orientation or gender identity and exert its leadership by decriminalizing consensual same-sex conduct and abiding by its international human rights obligations.

25. AI noted the Government response to the UPR recommendation indicating that it was unable to accept such a recommendation due to public opinion, arguing that there was no political mandate to do so and in fact significant sections of the community are opposed to such decriminalization. The Government further argued that "This is a topic which has been widely considered in society not only on the basis of its legality but from the socio- cultural and historical perspectives". AI noted that Barbados is a strongly religious society and there is a significant lobby by the church on such issues. AI added that religious, cultural and moral beliefs, however, cannot be used as a justification for differential treatment, intolerance, violence or the criminalization of intimacy between adults.

## MONTENEGRO

Date of review: Monday, 28 January AM

**Key Issues/Recommendations:** ensure that the Ombudsman and his office are provided with the human, technical and financial resources to implement the anti-discrimination law; consider introducing hate crimes legislation on grounds of sexual orientation or gender identity, as well as to public education programs and sensitivity training to promote respect for all persons, including on these grounds; protect the rights to peaceful assembly and association on grounds relating to sexual orientation or gender identity, and ensure that adequate police and other physical protection against violence or harassment is afforded to persons exercising these rights; take all measures to ensure enjoyment of the right to the highest attainable standard of health, including mental health.

**Sample Intervention:** We welcome Montenegro's commitment to equality and non-discrimination on all grounds, including on the basis of sexual orientation and gender identity. However, we note that stakeholders are concerned about continued discrimination and hate crimes committed against LGBT persons, and the indication that the Ombudsman lacks sufficient resources and capacity to address such cases, and to implement the anti-discrimination law. We recommend that Montenegro **ensure that the Ombudsman and his office are provided with the human, technical and financial resources to implement the anti-discrimination law.**

A number of stakeholders have expressed concerns about hate crimes and harassment directed against individuals, including on the basis of sexual orientation and gender identity. **We recommend that consideration be given to introducing hate crimes legislation on these grounds, as well as to public education programs and sensitivity training to promote respect for all persons, including on the grounds of sexual orientation or gender identity.**

We are concerned about the right to peaceful assembly and adequate protection of LGBT persons and their allies in public spaces. We recommend that Montenegro **under no circumstances impede the exercise of the rights to peaceful assembly and association on grounds relating to sexual orientation or gender identity, and ensure that adequate police and other physical protection against violence or harassment is afforded to persons exercising these rights.**

Finally, we recommend that Montenegro **take all measures to ensure enjoyment of the right to the highest attainable standard of health, including mental health, without discrimination on the basis of sexual orientation or gender identity, and to ensure that healthcare facilities are designed to respond to the needs of all persons taking into account sexual orientation and gender identity, and that medical records in this respect are treated with confidentiality.**

## Previous cycle

**Recommendations made:** to include in the draft legislation on the prohibition of discrimination comprehensive anti-discrimination measures, including on sexual orientation and gender identity; to include explicit references to sexual orientation as a protected category against discrimination in the existing laws on labour and employment as well as in the legislation on hate speech and hate crimes; to introduce specific education programmes and sensitivity trainings for all relevant judiciary and police personnel aimed specifically at the protection of human rights of non-governmental organization activists and members of minorities, including national minorities and persons of minority sexual orientation and gender identity.

**Status of recommendations:** accepted.

## National report

### **III. Progress in exercising and protection of human rights – implementation of the recommendations, achievements, activities and challenges**

#### **A. Fight against discrimination**

12. The general anti-discrimination law (2010) specifies the concept of discrimination and concepts of direct and indirect discrimination and provides for the grounds and mechanisms for the protection from discrimination on the ground of any personal characteristic. A separate article lays down the prohibition of discrimination on the grounds of sexual orientation and gender identity. Incitement to discrimination is defined as discrimination, and protection of persons reporting discrimination is also laid down. The law contains provisions governing protection from victimization. In order to give the final shape to the entire system for the protection from discrimination, the law also defines judicial protection, role of inspection services and penal measures, as well as the protection provided by the Ombudsman.

13. The law stipulates special forms of discrimination, while placing emphasis on severe forms of discrimination. Strong emphasis was placed on discrimination on the grounds of sexual orientation and gender identity. Sexual orientation is also explicitly prohibited as a ground of discrimination in the Criminal Code (CC) and the laws governing: labour, prohibition of workplace harassment, and media. Direct and indirect discrimination of job seekers and of the employed on the grounds of sex and sexual orientation is prohibited under the laws governing labour and prohibition of workplace harassment. The Labour Law also lays down the prohibition of sexual harassment, while the Law on Media lays down the prohibition of publishing information and opinions that incite to discrimination, hatred or violence against a person or a group of persons on the ground of their sexual orientation.

#### **M. Training and strengthening awareness of judiciary and police on the rights and protection of human rights**

83. Within the Plan of education of civil servants active in the field of providing protection from discrimination, a number of workshops and seminars dedicated to issues of discrimination and human rights protection have been organized. The Plan for implementation of the Law on Prohibition of Discrimination includes the plan for education and media promotion of anti-discrimination behaviours. Activities primarily include marginalized social groups - LGBT population, persons with disabilities and women. The plan of education, organized in annual cycles, envisages training that ensures full qualification for informed and sensitive proceeding and provision of efficient protection in discrimination cases. Selected participants are obliged to

participate in all segments of the training so that in the end of the cycle they can be entitled to the appropriate certificate.

84. Broad media campaign was organized within the Plan of promotion of anti- discrimination. The first stage of the campaign was dedicated to the key discrimination - on the grounds of disability, gender identity and sexual orientation.

## **Compilation of UN information**

### **III. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

#### **A. Equality and non-discrimination**

8. In 2011, CEDAW welcomed the adoption of the Law on the Prohibition of Discrimination (2010) which defined and prohibited direct and indirect discrimination based on sex, sexual orientation, gender identity and other grounds, provided for remedies and strengthened the role of the Ombudsman in relation to discrimination. UNHCR noted that the capacity of the Ombudsman's office to address discrimination issues remained a challenge. Noting the low number of complaints submitted to the Ombudsman under the Law, CEDAW recommended that Montenegro, inter alia, strengthen the mandate and resources of the Ombudsman to act on complaints about discrimination based on sex and appoint a Deputy Ombudsperson for Gender Equality; and raise awareness about the complaint procedures under the Law on Gender Equality and the Law on the Prohibition of Discrimination.

## **Summary of stakeholders' information**

### **C. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

#### **1. Equality and non-discrimination**

8. The Ombudsman had recorded a small number of reported cases of discrimination, which was a consequence of insufficient knowledge about human rights and protection mechanisms, as well as the lack of readiness among citizens to report such incidences. According to information submitted by the CoE, the Commissioner for Human Rights in December 2010 encouraged the authorities to broadly raise awareness on the principles contained in the Law on Anti-Discrimination adopted in July 2010, which included a ban on discrimination on grounds of sexual orientation and gender identity. Society for Threatened People (STP) commented that the Ombudsman and his office did not have enough human, technical and financial resources to implement the law. AI noted that by December 2011 only 20 cases of discrimination had been received by the Ombudsman and was concerned that the institution lacked the competencies and capacity to address such cases. Additionally, CoE-ECRI regretted that the full range of possible powers was not granted to the Protector to combat discrimination effectively.

14. According to JS2, the LGBT community was facing three main problems: a high level of homophobia, meaning a high influence of stereotypes and prejudices on attitudes and low level of knowledge on sexuality and gender identity among the general population and professionals; violence and discrimination, which was rarely reported and documented; and an inadequate legal and institutional framework addressing their needs. JS2 referred to recorded severe cases of hate speech (especially by government and church officials), which were not sanctioned and to unresolved hate crimes. JS2 recommended, inter alia, that the Criminal Code should be amended so that hate crimes against persons of homosexual orientation (homophobia) or transgender persons (transphobia), as well as other forms of hate crimes, would be considered as severe forms of criminal offence. Referring to public gatherings of LGBT persons, JS2 further recommended that the Montenegrin Government should guarantee the right to peaceful assembly and the adequate protection of LGBT persons and their allies; obtain public support of high Government officials e.g. public statements or their participation in the "pride march"; implement campaigns to decrease homophobia and promote the acceptance of queer identities and cultures. JS2 also made recommendations for the right to the best available health care for LGBT persons, including the need for a more consistent

LGBT-friendly mental health system and data protection for persons living with HIV, men who have sex with men and on transgender health issues.

## UNITED ARAB EMIRATES

Date of review: Monday, 28 January PM

**Key Issues/Recommendations:** review the High Commissioner's report on sexual orientation and gender identity, and consider implementing the recommendations.

**Sample Intervention:** We welcome United Arab Emirates' commitment to equality and non-discrimination on all grounds. In keeping with this commitment, **we recommend that the UAE review the report of the UN High Commissioner for Human Rights on Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, and give consideration to implementing the recommendations therein.**

### Previous cycle

**Recommendations made:** to consider, as a first step, amending its legislation on the death penalty to restrict its scope and adjust it to international standards; to consolidate the de facto moratorium on the use of capital punishment with a view to adopting a legal moratorium; to consider additional policy measures to promote tolerance and non-discrimination on the grounds of sexual orientation.

**Status of recommendations:** rejected.

### Input reports

There were no references to sexual orientation or gender identity in any of the three input reports.

## ISRAEL

Date of review: Tuesday, 29 January PM

**Key Issues/Recommendations:** adopt appropriate legislative and other measures to prohibit and eliminate discrimination on all grounds; in its responses to discrimination on the basis of sexual orientation or gender identity, take account of the manner in which such discrimination may intersect with other forms of discrimination; consider applying the *Yogyakarta Principles* to assist policy making in this regard.

**Sample Intervention:** We welcome Israel's commitment to equality and non-discrimination on the grounds of sexual orientation and gender identity. However, we remain concerned about multiple and intersecting forms of discrimination. We therefore recommend that Israel **adopt appropriate legislative and other measures to prohibit and eliminate discrimination on all grounds.**

We further recommend that **in its responses to discrimination on the basis of sexual orientation or gender identity, Israel take account of the manner in which such discrimination may intersect with other forms of discrimination.**

Finally we recommend that Israel **consider applying the Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity to assist policy making in this regard.**

## Previous cycle

**Documents** – The national report notes a number of areas of progress in addressing the rights of LGBT persons and same-sex couples, including with regard to legislation to combat discrimination, the registration of same-sex marriages from foreign countries, pension benefits, same-sex couple adoption, hate crimes and educational programs for police officers.

**Discussions** – During the Working Group review, the UK highlighted Israel’s progress to promote the rights of same-sex couples. At the adoption of the report, Egypt commented on the fact that Israel was not asked to legitimize same-sex marriage. No recommendations on human rights issues relating to sexual orientation or gender identity were made during the UPR of Israel.

## National report

[Not yet available]

## Compilation of UN information

There were no references to sexual orientation or gender identity.

## Summary of stakeholders’ information

There were no references to sexual orientation or gender identity.

### **LIECHTENSTEIN**

Date of review: Wednesday, 30 January AM

**Key Issues/Recommendations:** take all necessary legislative, administration and other measures to ensure the right to found a family, including through access to adoption or assisted procreation, without discrimination on the basis of sexual orientation or gender identity; consider applying the *Yogyakarta Principles* to assist policy making in this regard.

**Sample Intervention:** We welcome Liechtenstein’s commitment to equality and non-discrimination on all grounds, including on the ground of sexual orientation. **Could Liechtenstein inform us what steps have been take to ensure the right to recognition before the law of transgender persons, without infringement on their other rights, such as the right to bodily integrity?**

We welcome the steps that have been taken by Liechtenstein to legally recognise same sex couples. However we remain concerned that same sex couples are denied the right to found a family. We encourage Liechtenstein to recognise that everyone has the right to found a family, regardless of sexual orientation or gender identity, and that families exist in diverse forms. We recommend that Liechtenstein **take all necessary legislative, administration and other measures to ensure the right to found a family, including through access to adoption or assisted procreation, without discrimination on the basis of sexual orientation or gender identity.**

Finally we recommend that Liechtenstein **give consideration to applying the *Yogyakarta Principles on the application of international human rights law relating to sexual orientation and gender identity* as a guide to assist policy making in this regard.**

## Previous cycle

**Recommendation made:** to pursue work to draft and enact a law establishing registered partnership for same-sex couples.

**Status of recommendation:** accepted.

**Recommendation made:** to include sexual orientation and gender identity in equality laws and initiatives.

**Status of recommendation:** rejected.

## National report

### **III. Legal and institutional framework**

#### **B. Institutions for the protection and promotion of human rights**

10. Several institutions exist in Liechtenstein to promote human rights. The Government's Office of Equal Opportunity (SCG) plays an important role and has existed in its current form since 2005. It advocates against discrimination and for the promotion of equal opportunity in the fields of gender equality, disability, migration and integration, social disadvantage and sexual orientation.

### **IV Protection and promotion of human rights**

#### **A. Equality, non-discrimination and especially vulnerable groups**

##### **7. Sexual orientation**

**Recommendation no. 65/13: Law introducing registered partnerships of same-sex couples.**

51. With entry into force of the new Law on Registered Partnerships of Sex-Same Couples on 1 September 2011, an important contribution was made to overcoming discrimination and social taboos regarding homosexuality. Since then, same-sex couples have been able to have their partnerships registered. The registered partnership is certified by the Civil Registry Office.

52. Registration forms the legal basis for a life partnership with reciprocal rights and duties: The registered partners must provide each other with information regarding their income, assets and debts. Joint decisions must be made regarding the shared home. Registered couples are deemed equivalent to married couples in respect of inheritance law, social insurance law, occupational pension law, the law governing foreigners and naturalizations, tax law, and all other areas of public law. For this purpose, various existing laws were amended at the same time the Registered Partnership Act was created. Adoption of children and the use of reproductive medical procedures are not permissible for persons living in a registered partnership.

## Compilation of UN information

There were no references to sexual orientation or gender identity.

## Summary of stakeholders' information

There were no references to sexual orientation or gender identity.

### **SERBIA**

Date of review: Wednesday, 30 January PM

**Key Issues/Recommendations:** protect the rights to peaceful assembly and association on grounds relating to sexual orientation or gender identity, and ensure that adequate police and other physical protection against violence or harassment is afforded to persons exercising these rights; introduce hate crimes legislation on these grounds, as well as public education

programs and sensitivity training; ensure the right to recognition before the law of each person's self-defined gender identity, without infringement of other human rights; recognise unmarried same-sex couples on an equal basis to unmarried opposite-sex couples before the law, and ensure the right to found a family without discrimination on the basis of sexual orientation or gender identity.

**Sample Intervention:** We welcome Serbia's commitment to equality and non-discrimination on all grounds. However we note that concerns have been submitted about human rights issues relating to sexual orientation and gender identity.

The High Commissioner for Human Rights has highlighted the right to freedom of association and peacefully assembly of LGBT people as a particular human rights issue in Serbia. We recommend that Serbia **under no circumstances impede the exercise of the rights to peaceful assembly and association on grounds relating to sexual orientation or gender identity, and ensure that adequate police and other physical protection against violence or harassment is afforded to persons exercising these rights.**

Stakeholders have submitted information about violent attacks against persons on the basis of sexual orientation or gender identity. We recommend that consideration be given to **introducing hate crimes legislation on these grounds, as well as public education programs and sensitivity training to promote respect for all persons, including on the grounds of sexual orientation or gender identity.**

We note that stakeholders are concerned about new amendments to the Law on Healthcare, referring to sex reassignment procedures for transgender persons. We recommend that **the Government provide relevant institutions with clear instructions on implementing the Law.** We further recommend **that Serbia ensure the right to recognition before the law of each person's self-defined gender identity, without infringement of other human rights.**

Finally, we recommend that Serbia **recognise unmarried same-sex couples on an equal basis to unmarried opposite-sex couples before the law, and ensure the right to found a family without discrimination on the basis of sexual orientation or gender identity.**

## [Previous cycle](#)

**Recommendations made:** to promote the work of human rights defenders and take all necessary measures to ensure their safety and freedom of expression, and ensure they have a favourable working environment; to follow up the recommendation of the Special Representative of the Secretary-General on the situation of human rights defenders and denounce more forcefully verbal and physical attacks against human rights defenders; to adopt a national plan of action to enhance the protection of human rights defenders and independent journalists; to develop and implement a comprehensive strategy to protect human rights defenders, including those working on behalf of the rights of lesbian, gay, bisexual and transgender persons; to apply the Yogyakarta Principles as a guide for new policies in the area of lesbian, gay, bisexual and transgender rights; and to ensure the effective investigation of alleged attacks against human rights defenders.

**Status of recommendations:** no clear position.

## [National report](#)

[Not yet available in English]

### **IV. Application des recommandations formulées lors du premier cycle de l'EPU qui ont été acceptées**

*Défenseurs des droits de l'homme (Recommandation 20)*

105. En novembre 2011, Belgrade a accueilli la conférence intitulée «Pour une politique nationale relative aux défenseurs des droits de l'homme». L'objectif de cette réunion consistait à conduire une analyse de la situation des défenseurs des droits de l'homme dans la République de Serbie, ainsi qu'à améliorer l'application des normes figurant dans la Déclaration des Nations Unies sur les défenseurs des droits de l'homme.

106. L'élaboration de la Stratégie nationale de lutte contre la discrimination a été engagée en République de Serbie en conformité avec les recommandations du Commissaire à la protection de l'égalité et des organisations de la société civile.

107. En 2012, la République de Serbie, l'Albanie, l'Italie, la Lettonie, le Monténégro et la Pologne sont devenus partenaires du projet du Conseil de l'Europe intitulé «Lutte contre la discrimination fondée sur l'orientation sexuelle ou l'identité de genre en Europe». Le projet vise à aider les États membres à appliquer la recommandation 5 (2010) que leur a adressée le Comité des ministres, de combattre la discrimination fondée sur l'orientation sexuelle ou l'identité de genre.

108. Le projet relatif à la mise en œuvre de politiques de lutte contre la discrimination au titre de l'IAP 2011 vise à renforcer différents mécanismes en vue d'une mise en œuvre efficace de la législation de lutte contre la discrimination et à assurer la formation des représentants des organes publics compétents, en vue de promouvoir la tolérance, l'égalité et la diversité.

## **Compilation of UN information**

### **III. Implementation of international human rights obligations**

#### **E. Freedom of religion or belief, expression, association and peaceful assembly and right to participate in public and political life**

63. The High Commissioner for Human Rights regretted the decision by Serbian authorities to ban all public gatherings scheduled for 6 October 2012. She urged them to facilitate the rescheduling of a pride parade for the lesbian, gay, bisexual and transgender (LGBT) community that was planned for that day, instead of preventing its members from exercising their fundamental freedoms of expression, association and peaceful assembly. Further, she urged the Government of Serbia to take steps to ensure adequate protection of the LGBT community, as well as other vulnerable communities and minorities, such as Roma, so that they are able to exercise their freedoms of expression, association and peaceful assembly.

## **Summary of stakeholders' information**

### **2. Right to life, liberty and security of the person**

35. Society for Threatened Peoples (STP) noted numerous violent attacks on homosexuals as prejudice against them were widespread among the general population in Serbia.

### **4. Right to privacy, marriage and family life**

42. Joint Submission 4 (JS4) noted that in Southern Serbia, oftentimes, individuals who had undergone sex reassignment surgery must go to court to have their personal documentation changed. In such cases, some individuals must undergo a medical examination to prove the surgery, which imposes an infringement on privacy rights. JS4 noted that the Constitutional Court of Serbia delivered a decision in favour of a transsexual person who sued the Municipality for rejecting to change date on his birth certificate after sex reassignment procedure.

43. According to JS4, same-sex couples are deprived of any form of legal recognition thus deprived of any rights as a family even if they co-habit and constitute the de facto family. JS4 noted that same-sex couples were not allowed to jointly adopt children as Serbian law did not recognize any parental or custodial rights and obligations for a partner in a same-sex couple regarding the child of the other partner and prohibited second-parent adoption of the child.

## **6. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

51. AI stated that the Government had failed to guarantee the rights of lesbian, gay, bisexual and transgender people to freedom of expression and assembly, for example by cancelling the 2011 Belgrade Pride event at short notice, and failing to effectively investigate threats to Pride organizers and participants and to bring the perpetrators to justice. JS4, JS7 and STP expressed a similar concern. JS3 recommended that Serbia ensure that the right to hold peaceful public demonstration is available to all individuals without undue restrictions.

## **7. Right to work and to just and favourable conditions of work**

55. JS4 stated that the most common violation of the right of equality and protection against discrimination of LGBT people stemmed from termination of employment or refusal of employment due to the actual or perceived sexual orientation or sexual identity.

## **9. Right to health**

65. JS4 noted that on 20 July 2011, the Serbian Parliament adopted new amendments to the Law on Healthcare, one of which refers to transsexual people that would enable sex reassignment procedures to be covered by health insurance. However, JS4 noted that the amendment was very vague and the Government failed to provide relevant institutions with clear instructions on implementing the Law.