



**33rd UPR WORKING GROUP SESSIONS
SOGIESC RECOMMENDATIONS
6–17 May 2019**

This report contains a summary and the SOGIESC recommendations of the 33rd UPR Working Group Sessions.

The structure of the report includes SOGIESC remarks made by the State under Review, advanced questions from Member States and recommendations of Cycle II and III.

The report is based on the draft report submitted by the Working Group and notes taken by ILGA during the Working Group Sessions.

For further information on the UPR, please contact: upr@ilga.org.



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ALBANIA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 6 MAY 2019, 14:30-18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 10 MAY 2019, 15:00 – 18:00

During the 33rd UPR Working Group Session, Albania received 14 SOGIESC recommendations. It accepted 9 recommendations and noted the other 5.

A. SOGIESC Information

National Report

LGBTI persons

120. The National Action Plan for Non-discrimination on the Grounds of Sexual Orientation and Gender Identity 2012-2014 and the National Action Plan for LGBTI Persons 2016-2020 foresee several measures to address discrimination and integration of these groups. The strategic goals are: Improving the legal and institutional framework, as well as raising awareness on non-discrimination and protection of LGBTI people's rights, in line with international standards; Elimination of all forms of discrimination against the LGBTI community, through capacity building of law enforcement structures; Improving access to employment, education, health, housing and sports for LGBTI persons, while guaranteeing their equal opportunities.

Compilation of UN Information

6. The United Nations country team noted that despite legal developments to promote non-discrimination, discrimination against lesbian, gay, bisexual, transgender and intersex persons persisted, including denial of their right to marry and have a family, the right to gender reassignment surgery for transgender persons, and the right to self-determination in relation to bodily integrity for intersex persons. The country team also noted that there was an urgent need to improve the range of and access to high quality sexual and reproductive health services for lesbian, gay, bisexual, transgender and intersex persons. It recommended that Albania enforce the current legislation and national action plan and improve access to sexual and reproductive health services. The Office of the United Nations High Commissioner for Human Rights reported that it had led the “free and equal” campaign to promote equal rights for and fair treatment of lesbian, gay, bisexual, transgender and intersex persons, through the media and national events.



Summary of Stakeholder's Information

5. Joint Submission 3 (JS3)¹ stated that Article 18 of the Constitution included the grounds for prohibition from discrimination and did not include sexual orientation and gender identity as a prohibited ground for discrimination.⁸ It noted the adoption of the 2015 resolution by the Parliament “On protection of rights and freedoms of persons belonging to the lesbian, gay, bisexual and transgender (LGBT) community in Albania”⁹, of the LGBTI National Action Plan for 2016-2020,¹⁰ and of the 2015 amendments to the Labour Code prohibiting discrimination in employment and professions on the grounds of sexual orientation and gender identity. JS3 reported, however, that the Family Code defined marriage only between a man and a woman, and did not guarantee the right of LGBTI couples to adopt or have children via artificial insemination, limiting patrimonial rights. Despite the development of a manual on detecting hate crimes on grounds of sexual orientation and gender identity, and of a series of trainings for police officers, JS3 observed that the police force remained largely untrained and uninformed on LGBTI rights. The number of reported hate-crime cases on the ground of sexual orientation and gender identity was very low and data collection on hate crimes was still lacking. JS3 also noted the reported frequent use of homophobic slurs and bullying against LGBT students in schools, while school psychologists largely ignored the requests for support and, in some cases, offered conversion therapies. JS3 further noted that transgender students were forced to drop out from schools because of isolation and discrimination.

20. JS7² reported that LGBTI persons lacked full access to healthcare and experienced poor quality of service due to discrimination, stigmatization and negative attitudes. JS3 specified that transgender persons faced discrimination or refusal of services from health professionals on the grounds of their gender identity, and that there were no medical multidisciplinary team working with intersex babies nor written protocols for establishing intersex diagnosis

B. SOGIESC Advanced Questions for Albania

- **Spain:** We are concerned about the elimination of the Social Welfare and Youth ministerial portfolio and would like to know which institution would be then responsible for the implementation of the National Action Plan for LGBTI 2016-2020.

¹ Joint submission 3 submitted by: Aleanca LGBT (Albania), PINK Embassy Albania (Albania), Pro LGBT (Albania), Streha (Albania), ERA – LGBTI Equal Rights Association for Western Balkans and Turkey (Serbia), ILGA World (Switzerland);

² Joint submission 7 submitted by: Albania Center for Population and Development (Albania), Albanian Association of People Living with HIV/AIDS (Albania), Roma Active Albania (Albania), Stop AIDS, (Albania), Aksion Plus (Albania), National Center for Community Services (Albania), Psicho-Social Center “Vatra” Center (Albania), Act for Society (Albania) and Sexual Rights Initiative (Switzerland).

C. Albania's Working Group Session

- **Opening remarks:** (...) The Law "On Social Housing Programs", 2018, foresees with priority the inclusion in social criteria that benefit from social housing programs: victims of domestic violence; victims of trafficking / potential victims of trafficking; mother mothers; individuals belonging to the LGBTI community.
- **Intervention made after 34 interventions:** I have to give you the answer regarding the LGBTI services and also the National Action Plan on LGBTI. So, of course we are working on the implementation of this National Action Plan and one new issue which I need to give the information to you is that the government of Albania has decided to support financially also the social services for the LGBTI community, in the social health and social care center which is established from the NGO. At the same time, we have also the free help-line which is giving consultation and advice for the victims of violence.

D. Recommendations for Cycle III (2019)

a) Remarks of States

- **Chile:** We also welcome the implementation of a National Agenda for the Rights of the Child 2017-2020 to protect children; the legal advances to eliminate discrimination against LGBTI people; and the implementation of the third National Strategy on Gender Equality 2016-2020 that improves legislation on gender equality, non-discrimination and domestic violence.
- **Malta:** We particularly welcome the progress Albania has made since the second cycle and its efforts to increase safeguards against violations related to domestic and gender-based violence, child protection and exploitation, LGBTI persons and persons with disabilities.
- **Spain:** Although the Albanian Constitution recognizes that "everyone has the right to marriage", the Albanian Family Code prohibits same-sex marriage and there is no legal recognition for same-sex unions.

b) The following recommendations have been examined by Albania and enjoy the support of Albania:

- **Uruguay:** Implement measures that effectively protect LGBTI persons against discrimination in access to medical care (95.105)
- **France:** Fight discrimination against persons belonging to minorities, including LGBTI persons; accelerate the adoption of legislation on the application of the laws on persons belonging to minorities, persons with disabilities and on free legal aid (95.18).
- **Iceland:** Promote and protect the human rights of LGBTI persons and take measures to combat structural discrimination (95.19)
- **Czechia:** Take effective measures against persisting discrimination of LGBTI persons, ensure non-discriminatory access of LGBTI persons to health services and introduce LGBTI education to school curriculum (95.20).



- **Portugal:** Ensure that LGBTI persons are protected from stigma and discrimination in access to healthcare by, inter alia, introducing trainings on LGBTI rights to all health personnel and awareness-raising campaign on equal access to healthcare (95.21)
- **Netherlands:** Enhance efforts to implement the LGBTI National Action Plan, particularly the review of academic curricula on gender stereotypes and gender identity in line with Sustainable Development Goals 5 and 10 (95.27)
- **Chile:** Develop programs in schools to eliminate harassment of LGTBI children and adolescents, and implement psychological support measures to reduce the dropout rates of LGTBI students (6.120)
- **Israel:** Ensure that LGBTI individuals are protected from bullying and discrimination in the educational system (6.121)
- **Honduras:** Strengthen policies to combat violent offences and hate crimes based on sexual orientation and gender identity through establishing more solid links with the civil society and guaranteeing the implementation of legal provisions on hate crimes (6.49)

c) The following recommendations have been examined by Albania and have been noted by Albania:

- **Iceland:** Amend the Family Law to provide legal recognition for same-sex partnerships and adopt provisions that allow for legal gender recognition of trans individuals (6.22).
- **Ireland:** Intensify efforts to protect lesbian, gay, bisexual, transgender and intersex individuals from acts of violence, discrimination and harassment by fully implementing the National Action Plan for LGBTI Persons 2016-2020 and amending the Family Code to provide legal recognition of same-sex partnerships (6.23)
- **Malta:** Consider amending the Family Law to provide legal recognition of same-sex partnerships and adopt legal provisions that will allow legal gender recognition to transgender individuals (6.24)
- **Mexico:** Reform the Family Law so as to give legal recognition to couples of the same sex, to fight against discrimination and hate crimes based on sexual orientation and gender identity as well as guarantee access to health services for LGBTI persons (6.25)
- **Spain:** Develop a legal framework that recognizes at least the same-sex civil unions, as well as adopt measures so that gender recognition is based on a self-identification process and is free from abusive requirements, and likewise prohibit medical intervention on intersex minors when there is no strict medical necessity (6.26)

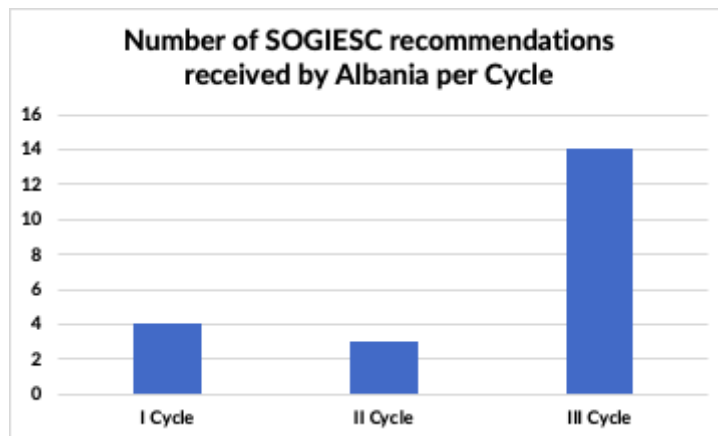
E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Study the possibility of strengthening the measures to fight discrimination, in order to eradicate the trend and/or the dissemination of stereotypes that lead to discrimination on	Argentina	Accepted



the grounds of sexual orientation		
Intensify efforts in the fight against all forms of discrimination, in particular against lesbian, gay, bisexual, transgender and intersex persons and minorities, by fully implementing the Law on Protection against Discrimination	France	Accepted
Continue to take steps to fully implement the Law on Protection from Discrimination in relation to discrimination based on sexual orientation and gender identity	Portugal	Accepted

F. Graphic Comparison Between Cycles (1–3)



G. SOGIESC recommendations shared by HRDs during ILGA’s UPR advocacy week in Geneva: ERA – LGBTI Equal Rights Association for Western Balkans and Turkey; Aleanca LGBT, PINK Embassy Albania, Pro LGBT and Streha

1. Amend Family Law to provide legal recognition of same-sex partnerships and adopt legal provisions that will allow legal gender recognition to trans individuals within one year;
2. Strengthen the position of Commissioner for Protection from Discrimination and ensure that LGBTI persons are reporting cases of discrimination based on SOGI;
3. Improve the position of law enforcement to combat violence and hate crimes based on SOGI by building stronger links with CSOs and the LGBTI community, as well as by providing training programs about SOGIESC to all members of law enforcement,



- ensure that legal provisions related to hate crimes are implemented and introduce official data gathering of hate crimes within next three years;
4. Ensure that LGBTI individuals are protected from bullying, discrimination and inaccessibility within educational system by reviewing school curricula and introducing training programs about sexual orientation, gender identity and expression and sex characteristics in all educational institutions within next three years;
 5. Within two years, introduce legal provisions and awareness-raising campaigns that would increase the visibility of intersex persons and ensure their adequate protection and well-being, including protection from discrimination based on sex characteristics, protection for their physical integrity and amending the Law on Civil Registration to introduce and differentiate between the concepts of sex and gender;
 6. Ensure that LGBTI individuals are protected from discrimination in access to healthcare by introducing trainings on LGBTI rights to all medical staff and awareness-raising campaign on equal access to healthcare within three years and provide adequate and accessible therapy for every person living with and/or in risk of HIV and AIDS;

H. [Video of Albania's UPR Working Group Session](#)

I. [SOGIESC Mentions During Albania's UPR Outcome](#)

- **UNHCR:** The UNCT congratulated the Government of Albania for its advances on human rights. Over recent years, Albania has made significant efforts with new or consolidated policies and legislation in areas including LBGTI, children, youth, minorities, including Roma and Egyptians, persons with disabilities, asylum and migration and to reduce the risk of statelessness among groups at risk.
- **ILGA World:** It thanked the 13 states who made 14 recommendations based on SOGIESC and commended Albania for accepting 9 of those recommendations. It thanked Albania for supporting the extension of the mandate of the UN Independent Expert on SOGI. It regretted that Albania noted 5 recommendations related to SOGIESC, stating that it doesn't plan to provide legal recognition for same-sex partnership. It expressed concern over the situation of LGBTI persons in Albania and urged the government to make their position public on several issues related to LGBTI rights.
- **Action Canada for Population and Development:** It expressed concern over the situation of persons facing multiple and intersecting forms of oppression, particularly rural women, Roma and Egyptian persons, as well as persons with non-normative sexual orientation and gender identity and expression, sex workers, men who have sex with men and people who inject drugs experience limited access to healthcare services generally and sexual and reproductive health services in particular. We therefore welcome Albania's acceptance of recommendations relating to ensuring non-discrimination on the grounds of sexual orientation and gender identity and expression, age, gender, HIV status among other grounds, for individuals accessing healthcare services.



BHUTAN UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 8 MAY 2019, 14:30 – 18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 10 MAY 2019, 15:00 – 18:00

During the 33rd UPR Working Group Session, Bhutan received 16 SOGIESC recommendations. It accepted all 16 recommendations.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

9. The United Nations Development Programme (UNDP) noted that the Penal Code of Bhutan 2004 criminalized sodomy and any other sexual conduct that was against the “order of nature”. According to UNDP, there was no evidence that that provision of the Penal Code had ever been enforced; however, there also remained a serious concern about the lack of data and information on lesbian, gay, bisexual, transgender and intersex communities and their vulnerabilities to discrimination. In 2016, the Office of the United Nations High Commissioner for Human Rights (OHCHR) supported national Free and Equal campaigns and events in Bhutan that promoted equal rights for and fair treatment of lesbian, gay, bisexual, transgender and intersex persons.

Summary of Stakeholder’s Information

10. Joint Submission 2 (JS2)³ noted Section 213 of the Penal Code that provides that “A defendant shall be guilty of the offence of unnatural sex if the defendant engages in sodomy or any other sexual conduct that is against the order of nature”, which criminalizes the LGBTI community and prevents them from accessing justice to counter the injustices they suffer. In this regard, JS2 recommended that Bhutan revokes this aforementioned Section of the Penal Code and the subsequent related sections.

B. SOGIESC Advanced Questions for Bhutan

- **Germany:** With regard to the rights of the LGBTI community, does Bhutan intend to revoke or amend sections 213 and 214 of the Penal Code?

³ Joint submission 2 submitted by: Bhutan Network for Empowering Women (BENEW), Thimphu (Bhutan), Bhutan Transparency International, Thimphu (Bhutan) and Tarayana Foundation, Thimphu (Bhutan).



C. Bhutan's Working Group Session

- **Closing remarks:** We acknowledge the delegation for your comments on LGBTI from numerous countries. I have the pleasure to present our clarification on LGBTI. While we are aware of the implication of these provisions on the LGBTI community, there are no instances of any members from the LGBTI community in Bhutan being prosecuted. Bhutan is an open society and LGBTI groups are not discriminated against. As a representative of CSO we have noted the the government of Bhutan provide support for the LGBTI members who suffer from HIV/AIDS and other related problem without any discrimination. The LGBTI community is represented freely through Rainbow Bhutan and civil society organizations.

D. Recommendations for Cycle III (2019)

a) Remarks of States

- **Ireland:** Ireland remains concerned about the particular vulnerability of the LGBTI persons to discrimination and harassment in Bhutan.
- **Spain:** Spain is concerned of the situation facing the LGBTI community in Bhutan, particularly the criminalization of buggery and sexual acts between persons of the same sex.
- **Switzerland:** Switzerland regrets that sexual minorities face discrimination.

b) The following recommendations have been examined by Bhutan and enjoy the support of Bhutan:

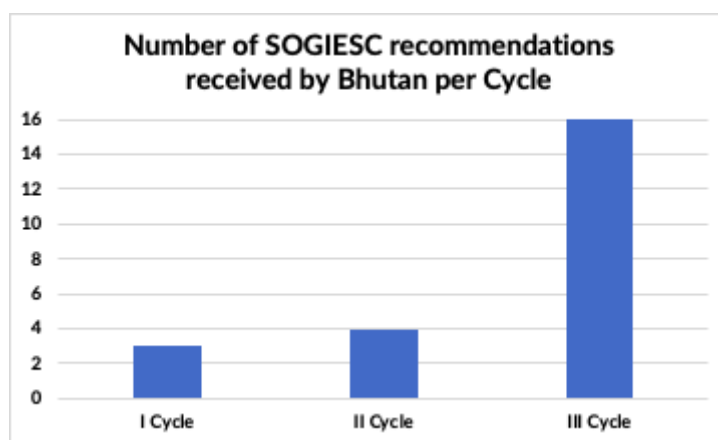
- **Israel:** Take steps to ensure non-discrimination of members of the LGBT community (6.24)
- **France:** Decriminalize same-sex sexual conduct between consenting adults (7.38)
- **Belgium:** Decriminalize same-sex sexual conduct between consenting adults (7.38)
- **Netherlands:** Revoke the provision on sodomy in Sections 213 and 214 of the Penal Code, which criminalizes same-sex conduct (7.39)
- **Switzerland:** Repeal Sections 213 and 214, which prohibit homosexual acts, from its Penal Code (7.39)
- **Canada:** De-criminalize same-sex sexual conduct between consenting adults by amending sections 213 and 214 of the Penal Code (7.39)
- **Cyprus:** Revoke Section 213 of the Penal Code (7.39)
- **Germany :** Decriminalize consensual same-sex conduct by revoking or amending Sections 213 and 214 of the Penal Code (7.39)
- **Iceland:** De-criminalize consensual same-sex acts by either revoking or amending Sections 213 and 214 of the Penal Code (7.39)
- **Ireland:** Decriminalize consensual same-sex conduct by repealing or amending Sections 213 and 214 of the Penal Code of Bhutan (7.39)
- **Spain:** Repeal legislation that criminalizes same-sex sexual conduct, and institute the recognition of non-discrimination based on sexual orientation, identity or expression of gender or sexual characteristics (7.40)
- **Uruguay:** Introduce reforms to the Criminal Code to decriminalize consensual same-sex relations as an essential step for the acceptance of sexual diversity in the country

- **Argentina:** Amend provisions of the Penal Code that are discriminatory, and that penalize relations between persons of the same sex (7.42)
- **Australia:** Continue to implement legislative reforms to decriminalize consensual same-sex sexual conduct (7.43)
- **Chile:** Repeal criminal provisions that sanction consensual sexual relations between adults of the same sex, and combat discrimination against people based on their sexual orientation or gender identity (7.44)
- **Iceland:** Amend anti-discrimination laws to include discrimination based on sexual orientation, gender identity and expression and sex characteristics (7.51).

E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Consider amending legislation criminalizing relations between persons of the same sex	Argentina	Noted
Decriminalize sexual acts between consenting adults of the same sex	France	Noted
Proceed to the abolition of existing legislation criminalizing relations between persons of the same sex	Spain	Noted
Decriminalize sexual acts between consenting adults of the same sex	United States of America	Noted

F. Graphic Comparison Between Cycles (1–3)





G. SOGIESC recommendations shared by HRDs during ILGA's UPR advocacy week in Geneva: Rainbow Bhutan

1. To decriminalize consensual same-sex conduct by either revoking or amending the Section 213 & 214 of the Penal Code of Bhutan.
2. To amend anti- discrimination law by including sexual orientation, gender identity and expression as one of the prohibited grounds of discrimination.

H. [Video of Bhutan's UPR Working Group Session](#)

I. [SOGIESC Mentions During Bhutan's UPR Outcome](#)

- **Opening remarks:** Soon after Bhutan presented its UPR this year the National Assembly of Bhutan introduced a bill to amend the Bhutan Penal Code to decriminalize homosexuality and discrimination on the basis of sexual orientation. The bill was unanimously adopted by the National Assembly and will be deliberated in the National Council during the upcoming session.



BRUNEI DARUSSALAM UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 10 MAY 2019, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 14 MAY 2019 16:30 – 18:00

During the 33rd UPR Working Group Session, Brunei Darussalam received 19 SOGIESC recommendations. It noted all 19 recommendations.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

18. While noting the efforts of Brunei Darussalam to combat discrimination, the Committee on the Rights of the Child reiterated its previous concern that discrimination against certain groups of children, particularly girls, children with disabilities, children belonging to ethnic and religious minorities, lesbian, gay, bisexual, transgender and intersex children and stateless children, still existed in practice. It urged Brunei Darussalam to adopt a comprehensive strategy, including awareness-raising, for the elimination of gender stereotypes and of de jure and de facto discrimination against all groups of children in marginalized and disadvantaged situations, as well as against girls.

Summary of Stakeholder's Information

11. JS1⁴ noted that despite receiving five recommendations during the last UPR relating to the decriminalization of homosexuality and the enhancement of LGBTIQ rights, none of them were accepted by Brunei's Government and homosexuality remained a criminal offense that is punishable by up to 10 years imprisonment under section 377 of the Penal Code. They noted that Brunei Darussalam highlighted its commitment to gender equality and stating that the laws apply to everyone without discrimination. Furthermore, the implementation of the first phase of the Sharia (Syariah) Penal Code Order (SPCO), in May 2013 made crossdressing an offense under Brunei law punishable with fines, imprisonment, or both. The proposed implementation of phases two and three of the mentioned Code will include corporal punishment for certain offenses, while phase three will implement the death penalty. These punishments will apply to "offenses" like consensual sexual relations between adults of the same gender. Brunei already prescribes whipping as punishment for a number of offenses. JS1 recommended the decriminalization of homosexuality, cross-dressing, and other "offenses" used to target the LGBTIQ community.

⁴ Joint submission 1 submitted by: The Human Rights Foundation (HRF) and The Human Rights Foundation Center for Law and Democracy (HRF-CLD), The Brunei Project, New York (United States of America);



12. ASC⁵ reported that Brunei Darussalam continued to criminalize LGBT people and did not appear interested in revoking these laws. They noted that “this denial of LGBTIQ people’s human rights was often justified on the grounds of religious beliefs, cultural identity, and defense of sovereignty”. It shared advanced questions to be proposed by the Human Rights Council at the review on how the Bruneian government, through its current work with its inter-agency consultative mechanisms (e.g. The National Council on Social Issues), act towards the promotion and protection of its citizens of diverse sexual orientations and gender identities; what was the work of the “Special Committee on Immoral Behavior”, as reported by the Bruneian government during the 2nd UPR cycle, and how has it ensured that its work does not infringe on the rights of persons of diverse sexual orientations and gender identities; and how will the Bruneian government act on cases wherein feedback and criticism of state policies regarding treatment of LGBT people is used as the basis to harass and silence citizen through the use of vague laws (e.g. “contempt of Syariah Justice”) and other methods? It recommended addressing the human rights abuses experienced by LGBT people, such as through sensitivity education of relevant government units and take steps to repeal laws criminalizing consensual sexual activity between adults, or at the very least define them in terms of public indecency so as not to harass individual rights to privacy and consensual adult activity. ASC recommended Brunei to take steps to ensure, under Brunei’s international obligations ratified in the CEDAW and the CRC, the promotion and protection of the rights of all women and children, including women and children of diverse sexual orientation and gender identity and expression.

B. SOGIESC Advanced Questions for Brunei Darussalam

- **United States of America:** We are very concerned about the full implementation of the Sharia Penal Code. Punishments in the law are inconsistent with international human rights commitments and obligations, would severely limit fundamental freedoms including of religion or belief, and would have a detrimental impact on a number of vulnerable groups in Brunei, including women at risk of violence, religious and ethnic minorities, and LGBTIQ persons. What steps is the Government taking to alter these provisions so that they are in full accordance with Brunei’s international human rights obligations and commitments?
- **Germany:** How does Brunei Darussalam intend to safeguard the human rights of LGBTIQ persons?

C. Brunei Darussalam’s Working Group Session

- **Opening remarks:** The Sharia Penal Code Order does not criminalize a person status based on sexual orientation or belief, nor does it victimize. Both laws continue to protect the moralities and the decency of the public while at the same time respecting the privacy of the individuals. Brunei’s society regardless of the sexual orientation have continued to live and pursue activities in the private space. No citizens or permanent residents are discriminated against in anyway in receiving the nations benefits, among others, such as obtaining employment, education and health care.
- **Closing remarks:** Like I stated earlier, Brunei does not promote violence of any kind and any people who has lived or visited Brunei can attest to the fact that torture and cruelty against any individuals or groups is not existent. Our laws are designed to preserve public peace,

⁵ ASEAN SOGIE (sexual orientation and gender identity and expression) Caucus (ASC).

security as our society demands. Therefore the Syariah Penal Code Order, like the common law is to ensure peace and societal integrity. As such, it aims to ensure the rights of all individuals, be it of different religion, race, abilities or even orientation are protected and they are not in anyway discriminated because of of the diversity that I just mentioned. While it is the act that is criminalized this are to protect religion, tradition and social fabric and values of what we are in Brunei. As such it is to ensure that such acts are refrained and limited to the private space, where the right of those individuals to privacy is respected and protected.

D. Recommendations for Cycle III (2019)

a) Remarks of States⁶

- **Croatia:** We were relieved to hear that the de facto moratorium on capital punishment will be extended to the cases under the Syariah Penal Code Order. As much as we welcome this as a step in the right direction we must express concern on the fact that homosexuality is still a criminal offense and that children under 18 may be lawfully sentenced to life imprisonment and corporal punishment, including whipping and amputation.
- **Greece:** However we express our profound dismay and grave concern about the fully entry into force of the Syariah Penal Code Order of 2013 which not only allows, among others of facts that may account among torture and other acts enshrined in CAT but also have a tremendous impact on other groups in the country, including LGBTIQ, women and children.
- **Malta:** We would like to refer to the second phase of the Syariah Penal Code which came into effect on 3 April 2019 and the provisions that define adultery and consensual same-sex relationships as criminal offences punishable by cruel, inhuman and degrading punishments, including stoning, whipping and amputation. We have taken due note of the Government's response to the Joint Communication from the Special Procedures of 1 April 2019, and the subsequent statement of the Sultan.
- **Mexico:** We welcome the announcement made by the authorities of Brunei regarding the moratorium of the use of death penalty and other cruel, inhuman or degrading treatment which would affect particularly LGBTI persons.
- **Montenegro:** We are deeply concerned of the restrictive 2013 Penal Code which severely impacts the rights of women, LGBT persons, and children by allowing amputation, public flogging and death by stoning and we urge Government to ensure respect of international human rights obligations and eliminate all cruel and inhuman penalties.
- **Netherlands:** The Netherlands remains deeply concerned with the decision of Brunei's government of fully implement its revised penal code order, the inhuman penalties it includes serious concerns in light of Brunei's international human rights obligations and commitments. Furthermore, it has a detrimental impact on a number of vulnerable groups in Brunei including LGBTI persons, women and children.
- **New Zealand:** New Zealand is also opposed to all forms of discrimination, including based on sexual orientation, gender identity or religion and belief.
- **Switzerland:** Switzerland is very concerned by the recent amendments to the Penal Code introducing, inter alia, the death penalty for homosexual acts and adultery, as well as

⁶ The following hostile remark was made by Belarus: We note the policy of the government to promote cultural and religious tolerance, as well as to support the institution of the family.

sentences that amount to torture. Despite an encouraging announcement regarding the validity of the moratorium on the death penalty, it is waiting for concrete action from the authorities.

- **Uruguay:** In the same way, Uruguay applauds the moratorium imposed on the recent penal modifications sanctioning conducts on sexual orientation that signify a serious setback in the respect of human rights and individual liberties.
- **United Kingdom:** We also call on Brunei to formalize its commitment to respect individual rights, including those of LGBT people.

b) The following recommendations regarding SOGIESC issues have been examined by Brunei Darussalam and have been noted by Brunei Darussalam⁷:

- **Denmark:** Immediately repeal the provisions of the Penal Code, which legalizes cruel, inhuman and degrading punishments, hereunder, death penalty for adultery and consensual same-sex sexual acts (6.38)
- **France:** Repeal the provisions of the new Penal Code providing for corporal punishment and the death penalty for several crimes including adultery, homosexuality, apostasy or blasphemy, contrary to the international commitments in human rights freely taken by Brunei Darussalam (6.40)
- **Germany:** Decriminalize consensual same-sex conduct and repeal provisions in the Syariah Penal Code Order that are not compliant with international human rights norms (6.41)
- **Netherlands:** Repeal or amend those sections of the Penal Code that criminalize consenting same-sex conduct and discriminate against people based on sexual orientation and gender identity, in line with SDG 10 (6.50)
- **New Zealand:** Review and rescind any laws that contravene Brunei Darussalam's obligations under CEDAW, CRC and CRPD, or that discriminate on the basis of sexual orientation or religion (6.51)
- **Sweden:** Revoke immediately the new legislation from April 3rd 2019 that imposes the use of death penalty for homosexuality and adultery and introduces other cruel and inhuman punishments (6.59)
- **United States of America:** Repeal criminal penalties under the Sharia Penal Code Order of 2013 that undermine the freedoms of religion and expression and prohibitions on torture and other cruel, inhuman or degrading treatment or punishment, and would have a detrimental impact on a number of vulnerable groups, including women at risk of violence, religious and ethnic minorities, and lesbian, gay, bisexual, transgender and intersex persons (6.62)
- **Uruguay:** Ensure that all amendments to the Penal Code announced in April, which reintroduced the death penalty for adultery and same sex relations and other offences considered serious by the new legislation, remain without effect (6.63)
- **Austria:** Repeal all legislation giving rise to discrimination against people on grounds of their sexual orientation or gender identity (6.66)

⁷ Brunei made the following comments regarding its decision to not accept the recommendations: "The law is there to respect and protect the religion and social fabric and values of Brunei society. Brunei society, regardless of their status in relation to sexual orientation or belief, continues to live in peace and harmony and works together for the development and prosperity of the country. On the issue of homosexual acts, Brunei Darussalam affirms the right of privacy of individuals."

- **Chile:** Ratify the State's commitment with the protection of human rights, by repealing all regulations that sanction and discriminate against people based on their sexual orientation and gender identity (6.68)
- **Malta:** Consider alternatives to the current Penal Code, which enshrines in legislation cruel and inhuman punishments such as the application of the death penalty for offences such as rape, sodomy, extramarital sexual relations, among other offences (6.69)
- **Costa Rica:** Ensure respect for the dignity and life of all persons regardless of gender, sex, race, national origin, ethnicity or sexual orientation, including the decriminalization of same-sex relations (6.87)
- **Norway:** Ensure equal rights and fair treatment to all, regardless of race, nationality, gender or sexual orientation (6.89)
- **Canada:** Decriminalize sexual activity between same-sex consenting adults and ensure that the protection of human rights for LGBTI persons is in conformity with its human rights obligations (6.90)
- **Greece:** Decriminalize homosexuality, cross-dressing and other "offenses" used to target the LGBTIQ community (6.91)
- **Belgium:** Decriminalize same-sex sexual conduct between consenting adults (6.92)
- **Iceland:** Decriminalize consensual same-sex acts and adultery (6.92)
- **Australia:** Decriminalise all sexual activity between consenting adults (6.92)
- **Mexico:** Decriminalize consensual same-sex relationships among adults as well as enact a law and policies against discrimination and violence based on sexual orientation and gender identity (6.93).

c) The following recommendations regarding death penalty, stoning and other cruel, inhuman and degrading penalties have been examined by Brunei Darussalam⁸ and have been noted by Brunei Darussalam:

- **Bulgaria:** Repeal the new punitive measures of the Shariah Penal Code Order 2013, and ensure that the implementation of this law will not infringe on human rights, and will be fully consistent with the international and regional human rights commitments and obligations undertaken by Brunei Darussalam (6.36)
- **Czechia:** Repeal the punishments such as death penalty by stoning, hand cutting and whipping that violate international law by constituting torture or other cruel, inhuman, or degrading treatment and bring the penal code in line with international law standards (6.37)

⁸ Brunei made the following comments regarding its decision to not accept the recommendations: "The promulgation of the Syariah Penal Code Order, 2013 (SPCO) is to preserve and protect religion, life, intellect, lineage and property. It is applied uniformly regardless of gender and in line with Brunei Darussalam's religious and cultural norms that are highly valued in our society. The corporal punishments in the SPCO will not be carried out arbitrarily and are intended to protect the society against serious crimes through the mechanism of deterrence, ensuring justice for the victims and their family and generally to preserve peace, morality and decency of the public. The basic rights of the accused are guaranteed throughout all stages of criminal proceedings, with various stringent safeguards to ensure a fair and proper administration of justice as well as high evidential threshold required for prosecution for offences of hadd and qisas. A de facto moratorium on the execution of death penalty for cases under the common law has been extended to cases under the SPCO which provides a wider scope for remission."

- Ireland: Repeal the new provisions of the revised Penal Code which, if implemented, will enshrine in legislation a range of extreme punishments that amount to torture, acts of cruel, and inhuman or degrading treatment (6.40)
- Luxemburg: Abolish all provisions of the revised Penal Code which are contrary to Brunei's international human rights obligations and commitments, including with regards to the prohibition of torture and other cruel, inhuman and degrading punishments or treatments, as well as the right to equal protection before the law for all without discrimination (6.48)
- Netherlands: Ensure that the criminalization of offences in the Syariah Penal Code is compliant with international human rights standards by undertaking immediate efforts to review, revise and repeal sections that are contrary to its legal obligations under the Universal Declaration of Human Rights and human rights treaties that Brunei Darussalam has signed or ratified (6.49)
- Uruguay: Ensure that all amendments to the Penal Code announced in April, which reintroduced the death penalty for adultery and same sex relations and other offences considered serious by the new legislation, remain without effect (6.63)
- Austria: Review the penal code in order to ensure its strict compliance with Brunei Darussalam's human rights obligations and commitments (6.65)
- Canada: Suspend the Syariah Penal Code and make comprehensive amendments to reflect its obligations under international law (6.67)
- Australia: Implement an official moratorium on the death penalty (6.110)
- Austria: Maintain its de-facto moratorium and establish an official moratorium on execution with a view to abolishing the death penalty (6.110)
- Belgium: Maintain the moratorium on executions with a view to abolishing the death penalty and revoke the Shariah penal code which foresees in the death penalty(6.110)
- Brazil: Immediately establish an official moratorium on the application of the death penalty and all forms of corporal punishment, with a view to their abolition (6.110)
- Canada: Maintain a moratorium on the death penalty under both the Civil and Syariah Penal Codes (6.110)
- Chile: Approve an immediate official moratorium to abolish the death penalty and commute all existing death sentences to prison terms (6.110)
- Croatia: Establish an official moratorium on executions with a view to abolishing the death Penalty (6.110)
- Denmark: Adopt a formal moratorium on death penalty, with a view towards its abolition (6.110)
- France: Maintain its moratorium on the death penalty with a view to abolishing the death penalty (6.110)
- Germany: Maintain the current de facto moratorium with a view to formally abolishing the death penalty (6.110)
- Greece: Immediately establish an official moratorium on executions with a view to abolishing the death penalty (6.110)
- Holy See: Maintain its moratorium on the death penalty with a view to abolishing the death penalty (6.110)
- Iceland: Adopt a formal moratorium on the death penalty and commute all existing death sentences to terms of imprisonment (6.110)
- Italy: Adopt a formal moratorium on the death penalty (6.110)

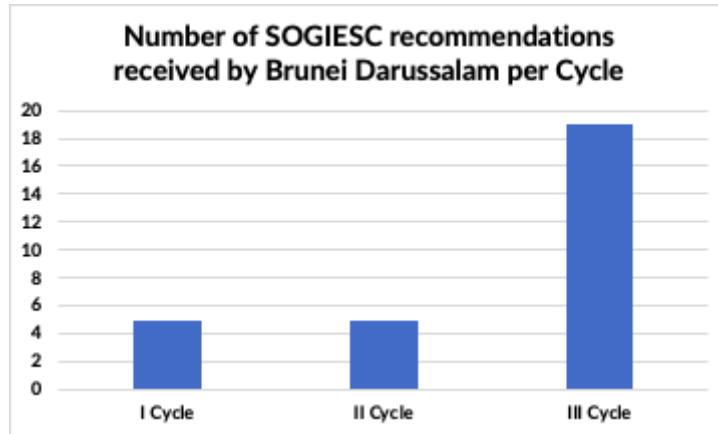


- Norway: Declare and uphold a de facto moratorium on the application of death penalty, as a first step towards its full abolition (6.110)
- Spain: Maintain the de facto moratorium on the application of the death penalty as a first step towards its abolition, and amend the Penal Code to reduce the number of offences punishable by death (6.110)
- Czechia: Uphold long-lasting moratorium on the death penalty, as previously recommended (6.112)

E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Decriminalize sexual activity between same-sex consenting adults and ensure the protection of human rights for sexual minorities in conformity with the State's human rights obligations	Canada	Noted
Decriminalize sexual activity between consenting adults and repeal all provisions of the newly enacted Penal Code that discriminate against women and sexual minorities and introduce cruel or inhuman forms of punishment	Czechia	Noted
Decriminalize sexual relations between consenting adults of the same sex	France	Noted
Repeal or amend those sections of the Penal Code that prevent LGBT persons from having equal rights	Netherlands	Noted
Proceed to the abolition of current legislation criminalizing sexual relations between persons of the same sex	Spain	Noted

F. Graphic Comparison Between Cycles (1–3)



G. [Video of Brunei Darussalam’s UPR Working Group Session](#)

H. SOGIESC recommendations shared by HRDs during ILGA’s UPR advocacy week in Geneva:

1. To halt the entry into force of the revised Penal Code which if implemented, it will enshrine in legislation cruel and inhuman punishments such as the application for the death penalty death penalty for offences such as rape, adultery, sodomy, extramarital sexual relations

I. [SOGIESC Mentions During Brunei Darussalam’s UPR Outcome](#)

- **United Kingdom:** We welcome His Majesty’s commitment to respect individual privacy. We urge Brunei to formalise this commitment for all, including for LGBT people, and ensure that Brunei’s laws do not discriminate on these grounds. We also note His Majesty’s assurances regarding the application of the current defacto moratorium on the death penalty to the Sharia Penal Code, and urge Brunei to conduct further work to reform its statutory punishments.
- **Belgium:** Moreover, Brunei Darussalam did not accept the recommendation to decriminalize same-sex sexual conduct between consenting adults. It also rejected the recommendation to maintain a moratorium on executions with a view to abolishing the death penalty, and to revoke the Shariah Penal Code, which foresees the death penalty.
- **International Humanist and Ethical Union:** Welcomed the decision of the state to extend the moratorium for the crimes in the new penal code including adultery, homosexuality and blasphemy, it stated that this is insufficient. In the light of the international human rights commitments, these acts must be decriminalized altogether. It also stated that the reasons presented by Brunei regarding religion and social fabric are not excuses for condoning homosexuality. It further stated on the need to protect the rights of individuals, including LGBTI people.
- **Ingenieurs du Monde:** It stated that Brunei's decision to implement the new penal code, which includes the provision criminalizing homosexuality is not in accordance with international human rights law.



- **International-Lawyers.Org:** It stated that the criminalization of homosexuality is a clear violation of international law, including of treaties that Brunei itself has ratified.



COSTA RICA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 13 MAY 2019, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 16 MAY 2019, 16:30 – 18:00

During the 33rd UPR Working Group Session, Costa Rica received 15 SOGIESC recommendations. It accepted all 15 recommendations.

A. SOGIESC Information

National Report

5. Lesbian, gay, bisexual, transgender and intersex persons

45. In the past five years, significant progress has been made towards guaranteeing equality and preventing discrimination against persons on the grounds of sexual orientation. In 2016, Costa Rica requested the Inter-American Court of Human Rights to issue an advisory opinion, in order to obtain guidance as to whether certain rights related to sexual orientation and gender identity are protected under the American Convention on Human Rights. The Government also sought clarification as to whether the country's domestic legislation was in conformity with the Convention. Upon conclusion of the consultations, in 2018 the Court notified the country that it had established the parameters with which States must comply to guarantee protection, without discrimination, for the rights of lesbian, gay, bisexual, transgender and intersex persons under the Convention.

46. Subsequently, the Government issued Executive Decree No. 41173-MP and Presidential Directive No. 015-P requiring all State institutions to amend the internal records, forms and documents of transgender persons who wish to change their name, photograph, sex or gender.

47. In addition, with a view to guaranteeing equality and equal rights for lesbian, gay, transgender, bisexual and intersex persons, the Government issued a series of decrees and directives aimed at eliminating sources of discrimination for these groups. These included, inter alia, a decree establishing the position of Presidential Commissioner for issues related to lesbian, gay, transgender, bisexual and intersex persons; regulations governing the migration rights of same-sex couples; and regulations establishing foreign nationals' right to have their sexual and gender identity recognized on their identity card for foreign residents (DIMEX), the aim being to ensure that the name, image and reference to sex or gender on the identity card accord with the holder's sexual and gender identity. In addition, Executive Decree No. 41313-S was amended to recognize the concept of biphobia as a form of discrimination. The directives addressed issues including access to family housing bonds for same-sex couples and lifted the ban on same-sex marriages and the penalties previously incurred by notaries who conducted same-sex marriages and recorded them in the civil register.



48. As part of efforts to guarantee equal rights to health for the most vulnerable groups, guidelines for protecting the right to health of lesbian, gay, bisexual, transgender and intersex persons have also been issued. The purpose of these guidelines is to provide a source of reference that defines responsibilities and offers guidance as to what must be done to guarantee the right to health of members of the lesbian, gay, bisexual, transgender and intersex community.

49. A programme of education in human rights for lesbian, gay, transgender, bisexual and intersex persons has been developed with a view to empowering members of the lesbian, gay, transgender, bisexual and intersex community who are studying within the national education system. An educational programme for public servants that addresses issues of sexuality and diversity has also been launched. By holding meetings with students and running workshops for teaching staff, the authorities are aiming to create an environment where educational institutions become safe spaces in which lesbian, gay, transgender, bisexual and intersex persons can express themselves without fear of being discriminated against and will be less vulnerable to educational exclusion. A protocol addressing bullying against lesbian, gay, transgender, bisexual and intersex students is also being drafted.

Compilation of UN Information

15. The United Nations country team highlighted the legislative advances made in the fight to end discrimination against lesbian, gay, bisexual, transgender and intersex persons and the creation of the position of Presidential Commissioner for Lesbian, Gay, Bisexual, Transgender and Intersex Affairs. It recommended that the Commissioner should be provided with a budget and human resources. It expressed concern about the acts of discrimination targeting lesbian, gay, bisexual, transgender and intersex persons that occurred during the last electoral campaign and urged the State to carry out awareness-raising campaigns to eradicate such behaviour.

22. The Committee on the Elimination of Discrimination against Women noted with concern the prevalence of gender-based violence against lesbian, bisexual and transgender women and intersex persons and recommended that Costa Rica adopt measures to prevent, investigate, prosecute and punish hate crimes against them.

54. The Human Rights Committee recommended that Costa Rica adopt specific measures to raise awareness of HIV/AIDS with a view to countering prejudice against persons living with HIV/AIDS, and step up efforts to ensure that persons living with HIV/AIDS, particularly persons deprived of their liberty, lesbian, gay, bisexual, transgender and intersex persons and migrants in an irregular situation, enjoyed equal access to health care and medical treatment.

Summary of Stakeholder's Information

25. The Latin American Space for Sexualities and Rights (MULABI) welcomed the creation of the position of Presidential Commissioner for Lesbian, Gay, Bisexual, Transgender and Intersex Affairs in



2018. Joint Submission 2 (JS2)⁹ considered that the position should be strengthened and recommended establishing a ministry responsible for social inclusion to ensure that the Presidential Commissioner had greater standing.

29. Regarding recommendations 128.69, 128.71 and 128.72 made during the 2014 universal periodic review, Joint Submission 4 (JS4)¹⁰ noted that, despite the progress made by Costa Rica in the area of human rights, conservative movements that were against the rights of women and lesbian, gay, bisexual, transgender and intersex persons had become stronger and this had led to an increase in hate speech and criticism directed against systems for the protection of human rights. It recommended that Costa Rica criminalize and punish hate crimes motivated by sexual orientation, gender identity and expression, and that it conduct awareness-raising, education and training initiatives around the existing legal framework.

30. JS2 noted that, in the light of Advisory Opinion 24/17 of the Inter-American Court of Human Rights, in 2018 the Supreme Electoral Tribunal had issued a decision approving name changes related to gender identity by means of a simple administrative procedure. JS4 noted, however, that it was still not possible to change sex/gender entries in the records of the Supreme Electoral Tribunal and that, accordingly, these details remained unchanged in information exchanged between different State bodies and in information available online. It recommended that Costa Rica guarantee the right of transgender persons to change the entries relating to their sex in all official documentation.

36. JS2 noted that, although the number of murders and attacks targeting lesbian, gay, bisexual, transgender, intersex persons and other persons of diverse sexual orientation and gender identity in Costa Rica was lower than in neighbouring countries and below the Latin American average, acts of intolerance were still being committed.

39. Two submissions noted that cases of hate speech and attacks against lesbian, gay, bisexual and transgender persons and human rights defenders had been recorded during the 2018 electoral campaign. JS2 also reported that there had been cases of online violence involving defamation, libel, the posting of fake images and intimidation against human rights activists by anonymous individuals and recommended that Costa Rica investigate these acts, prosecute those responsible and take steps to protect human rights activists.

⁹ Joint submission 2 submitted by: Fundación Igualitxs (Costa Rica); HDuarte Legal (Costa Rica); Comunidad Casabierta (Costa Rica); Visibles (Chile); Familias Homoparentales y Diversas de Costa Rica (Costa Rica); Fundación Iguales Panamá (Panamá); Brújula Intersexual Colombia (Colombia);

¹⁰ Joint submission 4 submitted by: Asociación Ciudadana Acceder (Costa Rica); Asociación de Desarrollo Sostenible LGTBIQ Costa Rica (ADS) (Costa Rica); Asociación Esperanza Viva (Costa Rica); Asociación MANU (Costa Rica); Centro de investigación y Promoción para América Central de Derechos Humanos – CIPAC (Costa Rica); Asociación Gerontológica Costarricense – AGECO (Costa Rica); Familias Homoparentales (Costa Rica); Frente por los Derechos Igualitarios – FDI (Costa Rica); Iglesia Luterana Costarricense (Costa Rica); Peras del Olmo (Costa Rica); Instituto Humanista de Cooperación con Países en Desarrollo HIVOS (Costa Rica); Movimiento Diversidad Abelardo Araya (Costa Rica); Asociación Demográfica Costarricense (Costa Rica); ICW Costa Rica (Costa Rica); Colectivo Trans-Parencias (Costa Rica); Colectiva Transcendientes (Costa Rica); Siwo Alar Hombres Trans Costa Rica (Costa Rica); Iniciativas por los Derechos Sexuales (Argentina);



49. MULABI noted that discrimination on the ground of gender identity was not included among the grounds of discrimination encompassed by the labour law reform and that there were no training or employment manuals in companies and institutions that might make it possible for transgender persons to work in a discrimination-free environment. It recommended that Costa Rica formulate State policies to promote the employment of transgender persons and to encourage private companies to hire persons belonging to this group.

55. JS4 stated that health-care personnel did not have the knowledge or training to meet the specific needs of lesbian, gay, bisexual, transgender and intersex persons. MULABI noted that transgender persons had no access to gender affirming procedures through the social security system and recommended that Costa Rica guarantee access to such procedures by training health-care personnel and guaranteeing the availability of surgery, hormone therapy and other procedures.

56. Two submissions recommended that Costa Rica amend the General Health Act to prohibit so-called “conversion therapy”, the results of which had been physically and psychologically disturbing for those members of the lesbian, gay, bisexual, transgender and intersex community who had undergone this treatment. MULABI recommended that Costa Rica ensure that intersex persons were not subjected to surgery without having given their free, prior and informed consent and that it draft a protocol for providing support to their families.

57. JS4 noted that, although Costa Rica was making significant efforts to combat HIV, the prevalence of HIV and sexually transmitted infections among key populations, such as men who had sex with men and transgender women, remained very high and there were no institutional policies for the comprehensive care of women living with HIV.

62. JS4 stressed that it was impossible for lesbian, gay, bisexual and transgender persons to access or remain in primary, secondary, technical, university and postgraduate education without being subjected to violent treatment, including expulsion.

B. SOGIESC Advanced Questions for Costa Rica

- **Belgium:** The Supreme Court of Costa Rica has declared an internal law which forbids same sex marriage unconstitutional. Does the government of Costa Rica intend to promulgate a law which recognizes same sex marriage? If so, what is the state of play regarding this law proposal?
- **Slovenia:** We commend Costa Rica's progress in ensuring equality and preventing discrimination on the grounds of sexual orientation. We would be interested to know whether the Government is considering any revisions of its legislation which currently aims to normalize intersex bodies through harmful and painful medical practices which include non-consensual surgeries.

C. Costa Rica 's Working Group Session

- **Opening remarks:** We are no immune to regressive trends in the field of human rights. Trends that had been gaining grounds in different places around the world and which threats to jeopardize the basic agreements that we have achieved and which poses real threats to women, migrant persons, LGBTI communities, indigenous persons and other vulnerable populations. [...] Furthermore, we are also better protecting workers now and this includes the prohibition of all forms of discrimination at the workplace, including discrimination on grounds of gender or sexual orientation. [...] We also now have a presidential commission for LGBTI persons and persons from african descendent.
- In terms of protecting the rights of the LGBTI community their pressing needs have been addressed in the last five years. For the first time, in 2014 there were 12 decrees that were passed by the legislative enabling same-sex couples to access a number of services and rights and a social assistance programs. Although we have had a number of steps forwards it is also important to note that there was consultations that was undertaken, driven by the Inter-American Court on Human Rights and the results were published in January 2018 in response to Costa Rica's consultation, the Court ratified the granting of equal rights to same sex couples and noted that such couples should not be object of discrimination and should be recognized as being on a par with heterosexual couples, namely that their marriage should be recognized as marriage. It also recognized that people should be individually able to determine their sexual orientation and gender identity and that papers should match their self-identification in this respect. In terms of the electoral process, there was a increase in hate speech, against LGBTI communities which puts to the test our institutions and our commitment of our citizens to human rights. There was a major debate in our country about the relevance of the Inter-American System of Human Rights. But we overcame the challenges linked to that and the Consultation number 24 led to further steps forward. In response to the question of Belgium, in August 2018 the consultative opinion was determined as being binding and I must say that despite being the case, equal marriage won't enter in to force until May 2020. From May 2020 onwards it will be enshrined in our countries law. There will not need to be an additional law for this article. However, it would need to be a law in order to be repealed. In terms of changing the name of transgender persons, we will make sure that this is possible in accordance with gender identity and this must apply to all official documentation and databases, from education databases to driving licenses and registers and documents relevant to the public life in general. In terms of hormonal and psychological treatment we have taken measures to make this available for transgender persons, such step forward has been with the support of the presidential commision on LGBTI persons, which was established in 2018 in order to assist the president with the challenges and commitments related to the LGBTI community. My election a year ago as the first member of the parliament openly homosexual in Costa Rica is one of the symbolic steps forward achieved in the recent years, but cultural changes, like elsewhere in the world, take long and they depend on the commitment of members of the government, on parliament's commitment and on the State in general to tackle hate speech, which represents a real challenge, not just in Costa Rica, but all across the world. This is essential to ensure a better and free and society, we need to strive for a change of mindset of judicial stereotypes.
- **Intervention made after 28 interventions:** On the 25th of April of this year, Costa Rica signed the Inter-American Convention against all forms of discrimination, racism and intolerance,

which includes measures aimed at ensuring the rights of persons who suffer discrimination because of their sexual orientation, political opinion or any other grounds.

D. Recommendations for Cycle III (2019)

a) Remarks of States

- **South Africa:** South Africa wishes to further commend the state of Costa Rica for establishing a general mechanism for consultation with indigenous peoples and guaranteeing equality preventing discrimination against persons on the grounds of sexual orientation.
- **Canada:** Canada thanks Costa Rica for its presentation and welcomes the positive steps taken by Costa Rica to fight discrimination and violence against women and girls and against LGBTI persons.
- **France:** We commend the situation of human rights in Costa Rica and measures taken recently and to step up the fight against racism and discrimination and to improve respect for LGBTI persons and the rights of migrants and refugees.
- **Iceland:** We also welcome the creation of the LGBTI commissioner and the adoption of new decrees and guidelines in support of LGBTI individuals.
- **Malta:** We also take note of the government's efforts to improve the protection of children and adolescents as well as LGBTI persons.
- **Netherlands:** We commend Costa Rica for taking steps after the Advisory Opinion of the Inter-American Court of Human Rights with regards to same sex couples. The next step is to work to eradicate social and structural discrimination against LGBTI persons
- **Portugal:** We further welcome Costa Rica on the protection of minorities, including LGBTI persons.

b) The following recommendations have been examined by Costa Rica and enjoy the support of Costa Rica¹¹.

- **Argentina:** Continue measures aimed at fighting against discrimination against LGBTIQ persons as well as at preventing, investigating and punishing acts of discrimination and violence against them (6.30)
- **Australia:** Increase efforts to reduce the societal stigma faced by LGBTI people and eradicate involuntary surgical procedures to 'normalise' the bodies of intersex people (6.106)
- **Canada:** Adopt legislation criminalizing hate crimes for reasons of sexual orientation and gender identity (6.31)
- **Chile:** Continue working towards the elimination of discrimination against LGBTI persons, and the eradication of gender-based violence against lesbians, bisexuals, transgender and intersex persons (6.32)
- **Colombia:** Strengthen national strategies to prevent violence and discriminatory actions against LGBTI persons (6.33)
- **Colombia:** Promote and implement the measures ordered by the Constitutional Chamber with respect to the recognition of de facto marital unions and marriage between people of the

¹¹ The following hostile recommendation has been made by Egypt: Protect the family and its development as a principal unit for the development of societies (6.73)



same sex, on the same basis and with the same rights as those recognized for heterosexual couples (6.70).

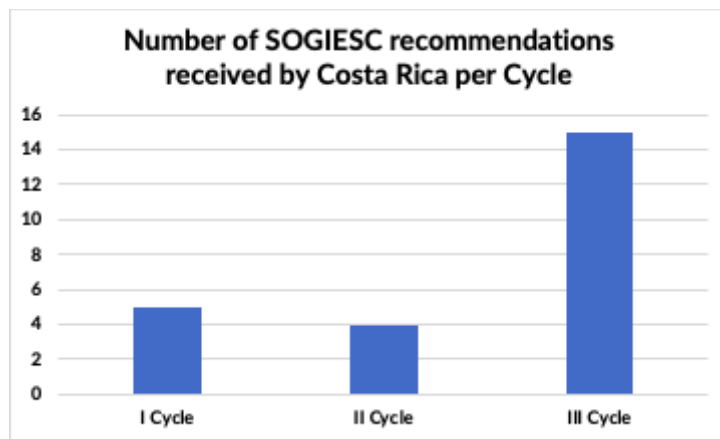
- **Iceland:** Improve records and other data on the situation of LGBTI individuals (6.34)
- **Iceland:** Prohibit any practice that modifies a person’s sex characteristics without irrefutable medical reasons and the full and informed consent of the person affected (6.104)
- **Malta:** Disaggregate data based on sexual orientation, gender identity and sex characteristics with a view to understand clearly the situation of LGBTI persons (6.35)
- **Malta:** Work towards ending protocols that aim to “normalise” intersex bodies through harmful and medical practices including non-consensual surgeries (6.105)
- **Mexico:** Adopt a comprehensive normative framework to fight against discrimination and racism, as well as take concrete actions to combat hate speech and structural discrimination against groups in vulnerable situations, including LGBTI persons (6.19)
- **Montenegro:** Adopt measures to prevent, investigate, prosecute and punish hate crimes against lesbian, bisexual and transgender women and intersex persons (6.36)
- **Netherlands:** Draft and implement an action plan to eliminate all forms of social and institutional discrimination against LGBTI persons, which includes a monitoring process (6.37)
- **Portugal:** Continue its efforts on the protection of the rights of LGBTI persons namely by recognizing intersex persons the right to gender identity self-determination and gender expression, inter alia by prohibiting the performance of chirurgical or pharmacological interventions in children before the manifestation of their gender identity (6.107)
- **Uruguay:** Carry out complementary efforts to ensure that the LGBTI population effectively enjoys their rights embodied in Costa Rican legislation, focusing, especially, on their access to the health system and employment (6.38)

E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Continue the measures to combat discrimination against LGBTI persons	Argentina	Accepted
Design awareness-raising policies and programmes regarding the prevention of discrimination of LGBT persons and provide equal rights for LGBT persons. In practical terms this means providing better access to justice for people whose rights have been infringed because of their gender identity, gender expression or sexual orientation, it also means allowing same-sex couples to enter into cohabitation contracts in order to remove inequalities relating to inheritance, health care, social	Netherlands	Noted

security, and finally it means removing discriminatory provisions from the Criminal Code and other laws and regulations		
Conduct public awareness policies and programmes, in cooperation with civil society, to change cultural paradigms and attitudes in order to encourage and promote respect for LGBTI persons and fight against prejudice and discrimination against LGBTI persons	Slovenia	Accepted
Fight discrimination against LGBT persons both in law and in practice, as it impacts on the possibilities of education, justice and access to health services, with emphasis on the difficulties faced by transgender people	Uruguay	Noted

F. Graphic Comparison Between Cycles (1–3)



G. [Video of Costa Rica’s UPR Working Group Session](#)

H. SOGIESC recommendations shared by HRDs during ILGA’s UPR advocacy week in Geneva: Mulabi/ Espacio Latinoamericano de Sexualidades y Derechos

1. Eradicate in the next two years the current protocols that aim to ‘normalize’ intersex bodies through harmful and painful medical practices, which included non-consensual surgeries.



2. To guarantee in an integral way the processes of Sex Affirmation of the Trans people, which includes the surgeries of affirmation of sex, processes of corporal modification (increase or reduction of sinuses) and psychosocial attention.
3. Promote, from the public and private sectors, the promotion of decent jobs for the Trans population, which guarantee an egalitarian, free life that contributes to the progress of the country.
4. Invest in continuing education and sensitization for teachers, administrative personnel, when starting with early education in Human Rights.
5. Urge the Supreme Electoral Tribunal and the State of Costa Rica to comply broadly, comprehensively and specifically with the Advisory Opinion issued by the Inter-American Court of Human Rights.
6. To disaggregate data based on gender identity, sexual orientation and sex characteristics, in order to have a clear overview of the situation of LGBTI persons and their basic right to services included the Sustainable Development Goals.

I. SOGIESC Mentions During Costa Rica's UPR Outcome

- **Opening remarks:** Moving now to the rights of the LGBTI persons, we also made significant progress in this area in our country. We would like to report that we adopted a number of administrative measures to combat discrimination on the grounds of sexual orientation and gender identity, and also to recognize their inheritance rights and to ensure nondiscrimination by public institutions and to permit gender identity in public documents. Despite the fact that we still have challenges to overcome from a formal and material point of view we can also say with certainty that over the last few years we have been considering options for providing greater guarantees for this group, the LGBTI. In this process, civil society has played a crucial role. Civil society, together with concrete actions that we, the state, have carried out, such as the request to the Inter-American Court of Human Rights for an advisory opinion on the incompatibility with the Inter-American Convention on Human Rights who standards apart of our laws and prohibit the marriage between persons of the same sex. We have asked the Court to rule on that. Thanks to our consultation, we now know how our laws are at odds with the Convention and we have therefore adopted the appropriate measures for our legislative assembly to amend the law or to control the law from the convention point of view, in the light of treaty bodies as to 2020.
- **ILGA World:** It commended Costa Rica for the measures taken, but expressed concern that they take form in administrative measure that can be revoked at any time and also regarding the lack of protection regarding intersex persons. It thanked the recommending states



CÔTE D'IVOIRE UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 7 MAY 2019, 14:30 – 18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 10 MAY 2019, 15:00 – 18:00

During the 33rd UPR Working Group Session, Côte D'Ivoire received 10 SOGIESC recommendations. It noted all 10 recommendations.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

21. The (Human Rights) Committee also recommended that the State take the necessary steps to protect lesbian, gay, bisexual and transgender persons against all forms of discrimination, intimidation and violence, and amend the provisions of article 360 of the Criminal Code and any other provision of its criminal legislation that discriminated against persons on the basis of their sexual orientation.

Summary of Stakeholder's Information

15. AI¹² recommended that the government amend the provisions of Article 360 of the Criminal Code and any other provision of its criminal legislation that discriminates against persons because of their sexual orientation or gender identity.

22. AI called on the government to publicly reiterate Côte d'Ivoire's commitment to respect, protect and fulfil the human rights of all people without discrimination, including on the basis of sexual orientation or gender identity.

39. AI called upon the government to instruct the police and the judiciary to put an end to arbitrary arrest and detention of people held solely on the basis of their real or perceived sexual orientation or gender identity.

41. AI called upon the government to promptly, thoroughly, independently and impartially investigate all allegations of attacks, arbitrary arrest and detention of persons on the basis of their real or perceived sexual orientation or gender identity and bring anyone suspected of responsibility to justice in fair trials.

¹² Amnesty International

B. SOGIESC Advanced Questions for Côte d'Ivoire

- **Germany:** During the second cycle, Côte d'Ivoire did not accept any of the proposed recommendations regarding the rights of LGBTI persons. Which steps have been taken in the meantime to increase public acceptance of LGBTI persons in Côte d'Ivoire?

C. Côte d'Ivoire's Working Group Session

- **Intervention made after 68 interventions:** The issue of LGBT individuals. The position of Cote d'Ivoire on this is unchanged. Since our previous UPR. Therefore, no measure has been taken and no measure is intended to be taken in relation to LGBT individuals in Cote d'Ivoire. That been said, I would like to clarify that Cote d'Ivoire legislation does not make the sexual orientation of anybody living in Cote d'Ivoire subject to punishment by the law.

D. Recommendations for Cycle III (2019)

a) Remarks of States

- **Netherlands:** Nevertheless, the Netherlands expresses concern about ongoing human rights violations and abuses, intimidation and harassment of human rights defenders, journalists and critics, and LGBTI persons in Côte d'Ivoire.

b) The following recommendations have been examined by Côte d'Ivoire and have been noted by Côte d'Ivoire

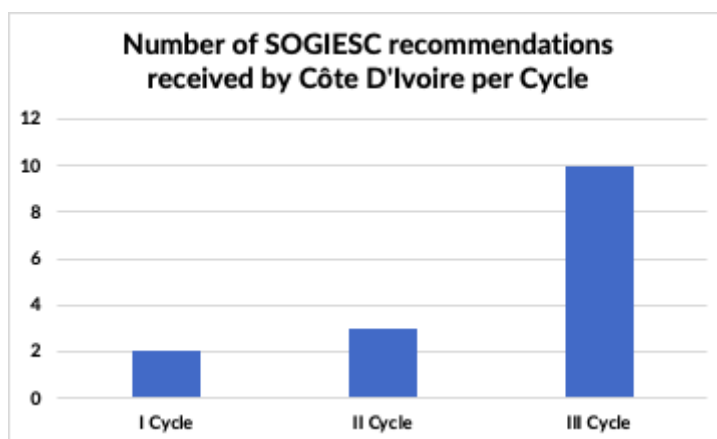
- **Germany:** Better protect the rights of LGBTI persons, by expanding non-discrimination laws to include sexual orientation and gender identity and by abolishing homosexuality as aggravating circumstance as in article 360 of the Penal Code (8.1)
- **Czechia:** Take the necessary steps to protect persons with albinism and LGBTI persons against all forms of discrimination, intimidation and violence (8.2)
- **Iceland:** Enact legislation protecting the rights of LGBTI individuals, including expanding non-discrimination laws to include discrimination based on sexual orientation and gender identity (8.3)
- **Iceland:** Ensure that law enforcement officers comply with laws protecting the rights of LGBTI individuals and undertake awareness-raising campaigns to combat the stigmatization of LGBTI persons (8.5)
- **Ireland:** Amend all legislation that discriminates on the basis of sexual orientation or gender identity, including article 360 of the Criminal Code, and take concrete steps to protect LGBTI individuals from acts of violence, discrimination and harassment (8.6).
- **Netherlands:** Amend article 360 of the Criminal Code and other provisions of its legislation which discriminate against persons on the grounds of sexual orientation and gender identity, in line with SDGs 5 and 10 (8.7)
- **Chile:** Repeal the provisions in the penal legislation which are discriminatory on sexual orientation or gender identity, in particular article 360 of the Penal Code (8.8)
- **United States of America:** Investigate allegations of violence and serious levels of discrimination targeting LGBTI persons (8.9).

- **Argentina:** Take the necessary measures to modify the provisions of article 36 of the Criminal Code, as well as the other provisions of its legislation that are discriminatory on the grounds of sexual orientation and gender identity (8.10).
- **Australia:** Strengthen efforts to address inequality, violence and discrimination based on sexual orientation and gender identity (8.11)

E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Take further steps to prevent discrimination on the grounds of gender identity and sexual orientation and to raise awareness on its consequences	Netherlands	Noted
Conduct such specific awareness-raising campaigns which can help to sensitize the general Ivorian public regarding the rights of LGBTI persons	Slovenia	Noted
Better protect LGBTI persons and persons with AIDS against any act of discrimination and violence and review its legislation in this context	Switzerland	Noted

F. Graphic Comparison Between Cycles (1–3)



G. [Video of Côte d'Ivoire's UPR Working Group Session](#)

H. [SOGIESC Mentions During Côte d'Ivoire's UPR Outcome](#)

N/A



**DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA
UPR SOGIESC RECOMMENDATIONS**

**DATE AND TIME OF THE REVIEW: 9 MAY 2019, 14:30 – 18:00
DATE AND TIME OF THE ADOPTION OF THE REPORT: 14 MAY 2019, 16:30 – 18:00**

During the 33rd UPR Working Group Session, Democratic People's Republic of Korea received 0 SOGIESC recommendations.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

N/A

Summary of Stakeholder's Information

N/A

B. SOGIESC Advanced Questions for Democratic People's Republic of Korea

N/A

C. Democratic People's Republic of Korea's Working Group Session

N/A

D. Recommendations for Cycle III (2019)

a) Remarks of States

N/A

E. The following recommendations have been received by Democratic People's Republic of Korea

N/A



F. Recommendations for Cycle II (2014)

N/A

G. [Video of Democratic People's Republic of Korea's UPR Working Group Session](#)

A. SOGIESC Mentions During Democratic People's Republic of Korea's UPR Outcome

N/A



DEMOCRATIC REPUBLIC OF CONGO UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 7 MAY 2019, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 10 MAY 2019, 15:00 – 18:00

During the 33rd UPR Working Group Session, Democratic Republic of Congo received 4 SOGIESC recommendations. It noted all 4 recommendations.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

11. The Human Rights Committee was concerned about allegations that some individuals had been subjected to discrimination and violence because of their sexual orientation or gender identity and prosecuted because of their sexual orientation. It also expressed concerns about the lack of measures to address reported cases of discrimination and violence against persons with albinism and about the absence of comprehensive antidiscrimination legislation. It recommended that the State take effective measures to prevent discrimination and acts of violence based on discrimination and ensure that victims received full reparation.

12. The Committee also recommended that the State guarantee the protection and enjoyment, on an equal footing, of Covenant rights for all persons with albinism and ensure that no one was prosecuted under article 176 of the Criminal Code by reason of their sexual orientation or gender identity. It further recommended that the State enact comprehensive legislation providing full and effective protection against discrimination in all spheres and containing an exhaustive list of prohibited grounds of discrimination, including sexual orientation and gender identity.

Summary of Stakeholder's Information

16. Joint Submission 23¹³ (JS23) noted that, although homosexuality was not directly mentioned as a crime in the Criminal Code, according to article 176 of the Code, “anyone who publicly offends morality by indecent acts shall be liable to eight days’ to three years’ imprisonment and/or a fine of twenty-five thousand zaires”. The morality laws could also be applied to same-sex relationships. They were often used and applied to criminalize private relationships between persons of the same sex. JS23 recommended repealing all legal provisions, such as articles 175 and 176 of the Criminal Code,

¹³ Joint submission 23 submitted by: MOPREDS, Goma Oasis, Kinshasa Rainbow Sunrise Mapambazuko, Bukavu Jeunialissime, Kinshasa, Geneva, Switzerland;



that discriminated against lesbian, gay, bisexual and transgender persons on grounds of their sexual orientation, gender identity or gender expression.

17. Joint Submission 18¹⁴ (JS18) noted with concern that lesbian, gay, bisexual and transgender people were often tortured by the police, the military and the intelligence services, who then took the opportunity to extort money. They were put on trial for indecent assault or exposed in television, radio or press reports in the Congolese media characterizing them as deviants. JS18 recommended that any future bill to criminalize and discriminate against persons on the basis of their sexual orientation and gender identity or expression, real or supposed, should be declared inadmissible in Parliament as unconstitutional and incompatible with the international undertakings and obligations of the Democratic Republic of the Congo.

B. SOGIESC Advanced Questions for Democratic Republic of Congo

- **United States of America:** What steps is the government taking to protect lesbian, gay, bisexual, transgender and intersex (LGBTI) persons from violence and serious forms of discrimination?
- **Netherlands:** Furthermore, The Netherlands would like to ask if the delegation from the DRC can elaborate on the inclusiveness of the definition of a human rights defender? In particular, will the legislation acknowledge both the defenders of environmental rights and the rights of LGBTI persons as human rights defenders, and will it offer the same legal protection to these groups to carry out their work in safety?

C. Democratic Republic of Congo's Working Group Session

- **Intervention made after 43 interventions:** We also talk about the rights of people LGBT. That is a very sensitive subject in the DRC. As it is in a number of countries in Africa, which are very tied to traditions, very tied to religion. I had the opportunity to speak with several associations in the DRC of all different kinds, men, women, people of different religions. And in most discussions turns that the DRC it seems that the DRC is not yet ready to adopt any kind of law on the rights of homosexuals. I was told that no custom in the DRC, of all the tribes of the DRC, none of them authorize homosexual marriage. The religious faiths also say to us no religion, be catholique, protestant, muslim to name those who are more prevalent in the DRC, none of them accept homosexual marriage. So it would be difficult for us, at least today to even think about opening discussions among those lines. Many European countries who adopt the laws to protect homosexual people, moreover that enacted laws enshrining homosexual marriage have taken much time. You recall that in some countries in the west, less than 25, 30 years ago, homosexuals were still considered mentally handicapped and they

¹⁴ Joint submission 18 submitted by: Synergie des femmes pour les victimes des violences sexuelles (SFVS) solidarite feminine pour la paix et le developement Integral (SOFEPADI) Plateforme des Femmes du Nord-Kivu pour un Developpement Endogene (PFNDE) Femmes Juristes pour les Droits de la Femme et de l'Enfant (FJDF) Marche Mondiale pour les Femmes (MMF) Agir pour le Developpement Integrale (ADI-LOKINO) Ligue pour la Solidarite Congolaise (LSC) Centre des Recherches pour la Paix et le Developpement Integral (CREDDHO), ARCHE D'ALLIANCE, Association des Jeunes Femmes de Maniema (AJFMA), SEDIR SEDIR, GOMA, DRC;

were sent to prison for even being so. There was said that there was a deprecation of moral and customs that couldn't be tolerated. But with time, values can change with time. That is the question that is being raised in Africa, specially in DRC. That said, in Africa we say don't kill now doesn't mean that killing is going to be a value in 20 or 30 years, lying to a child now doesn't mean that lying is going to be a value in 25 or 30 years. So we need to prepare the public opinion, it takes time to change the public opinion. But we need to stress that homosexuals are not mistreated in the DRC, there is no law incriminating homosexuality, there is no law enshrining homosexuality. While homosexuality is practiced in a purely private framework, behind closed doors, no homosexuals are troubled or harassed. But we will take our time, we hope that in 20 to 25 years, hopefully public opinion will evolve and things will change.

- **Intervention made after 71 interventions made:** The Netherlands wants to know if the delegation can explain the inclusive nature of the definition of a human rights defender specially, in legislation regarding defenders of environmental rights and the rights of LGBT people. If they have the same rights. The answer is yes, I don't think that there is a single NGO that will contradict us in this, we don't stand in the way of NGOs carrying out work to protect the environment, their work in DRC. In the contrary, we really need their help. It is no secret that the DRC is the second land of the world, after the Amazon, with the second highest water resource in the world. With regards to the rights of LGBT persons, I already answered that question but the NGOs that protect the rights of LGBT people, they work freely in our country, they continue to advocate for their rights to be respected, we recognize their freedom of speech, their freedom to protect those which they consider to be their rights. In due cause, as I said, hopefully the congolese people will decide to legalize homosexual marriage and we will agree with that right.

D. Recommendations for Cycle III (2019)

a) Remarks of States

N/A

b) The following recommendations have been examined by the Democratic Republic of the Congo and have been noted by the Democratic Republic of the Congo.

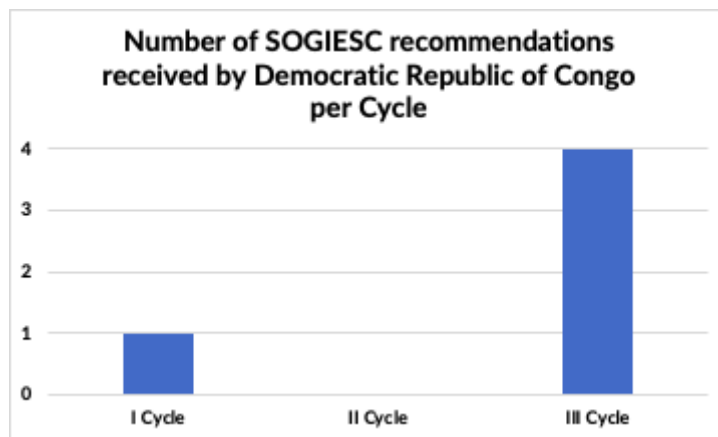
- **Uruguay:** Ensure equality of rights, by passing legislation that criminalizes discrimination on the grounds of sexual orientation or gender identity, and allows access to justice for those affected (6.72)
- **Argentina:** Adopt the necessary measures to prevent and punish all acts of discrimination and violence, in particular against LGBTIQ persons, and persons with albinism, ensuring their protection and due compensation (6.73).
- **Chile:** Revoke articles 175 and 176 of the Criminal Code that discriminate against LGBT persons because of their sexual orientation, gender identity or expression, and to reject legislative proposals that criminalize consensual relations between adults of the same sex (6.74).

- **Iceland:** Immediately repeal all provisions, including articles 175 and 176 of the Penal Code, resulting in discrimination based on sexual orientation, gender identity and sex characteristics (6.76)

E. Recommendations for Cycle II (2014)

N/A

F. Graphic Comparison Between Cycles (1–3)



G. [Video of Democratic Republic of Congo's UPR Working Group Session](#)

H. SOGIESC recommendations shared by HRDs during ILGA's UPR advocacy week in Geneva: Mouvement Pour la promotion du respect Et Egalité des Droits et santé en RDC - MOPREDS Congo

1. Put in place legal instruments, mechanisms and legal tools aimed at the recognition of rights guaranteeing privacy, access to information, freedom of expression, association and assembly as fundamental rights applicable to LGBTIQ + people, while creating a favorable climate for the functioning of LGBTIQ + organizations in the DRC.
2. Repeal all discriminatory legislation, such as Articles 175 and 176 of the DRC Penal Code, with respect to LGBT persons because of their sexual orientation, gender identity and gender expression and which are often used to criminalize such persons based on actual or perceived OSIEG.
3. Totally reject MP Steve Mbikayi's proposed law to identify and criminalize same-sex sexual relations between same-sex and consensual same-sex couples.
4. In the next two years, in consultation with LGBT organizations, conduct a national dialogue and campaign in the media, in public and private services and in schools to fight against all forms of discrimination based on OSIEG.
5. Implement, within three years, procedures to combat the harassment and ill-treatment of LGBTIQ + people who are the object of actions by law enforcement



officers and to ensure their safety by setting up a guide for law enforcement officers on the rights of LGBTIQ+ people.

6. Increase access to sexual and reproductive health services for vulnerable groups, including LGBTIQ+, according to the specificities of each, by increasing the health budget to 10% of the initially planned budget per year.

I. [SOGIESC Mentions During Democratic Republic of Congo's UPR Outcome](#)

- **Opening remarks:** Certain things are to be tackled by our parliament, which is the only body suited to such tasks. So the recommendations that we took note of are those which apply to the LGBTQ community and the abolition of capital punishment as well as the standing invitation for special procedures mandate holders. My country position on those recommendations can be justified and explained as follows. First of all a number of topics addressed here are not particularly relevant to the DRC at this particular point in time and they are not a matter of concern to our people. For instance the recommendation aiming to ensure equal rights by adopting laws that would criminalize discrimination based on sexual orientation or sexual identity. In this very room, on the 7th of May of 2019, Mdm. Marie-Ange Mushobekwa, the standing minister for Human Rights and the head of DRC delegation to the 33rd session of the UPR explained in very clear terms our government's position on this question.



DOMINICA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 9 MAY 2019, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 14 MAY 2019, 16:30 – 18:00

During the 33rd UPR Working Group Session, Dominica received 16 SOGIESC recommendations. It noted all 16 recommendations.

A. SOGIESC Information

National Report

35. The National HIV/AIDS Prevention Unit in the Ministry of Health and Social Services, created in 2003, caters to a number of programmes and activities geared at creating greater awareness, care, understanding, respect and tolerance for persons affected by HIV/AIDS. Counselling, medication and other treatments are provided to all people living with HIV/AIDS, irrespective of their sexual orientation. The total elimination of the stigma associated with the disease poses a challenge, but efforts to educate the public continue, and the populace are becoming more aware and accepting through campaigns, Walkathons, Talk Show programmes, issuing of leaflets/pamphlets in schools, workplaces etc. The Unit continues to hold free National “Know Your Status” testing which encourages individuals to be tested for the disease. The last “Know Your Status” was held at the end of 2018.

44. The views expressed by individuals and groups must remain within the legal provisions on libel and slander. Responsible journalism is widely encouraged. The Government does not prevent defenders of any cause from exercising their rights and there is no law requiring individuals to state their sexual preference or conscientious position when associating. Specific sexual acts are criminalized when carried out in public domain, but not what might be considered physical manifestations or association. The Government of Dominica is not prepared to introduce at this time legislation to Parliament decriminalizing public sexual relations between adults of the same sex.

Compilation of UN Information

12. The United Nations subregional team regretted the lack of specific legislation in Dominica to address discrimination based on disability, on sexual orientation or gender identity, on social status or on any other grounds not currently covered by legislation.

13. The United Nations subregional team noted that Dominica society was intolerant regarding homosexuality or gender identity. Some radio stations played music with homophobic lyrics and government officials had publicly made discriminatory statements. The subregional team was particularly concerned that pursuant to the Sexual Offences Act 1998, consensual same-sex relations were considered “gross indecency” and were punishable by a sentence of up to five years and “buggery” was punishable by a sentence of up to 25 years.



14. The United Nations subregional team was also concerned that lesbian, gay, bisexual, transgender and intersex persons, particularly those of lower economic status, faced discrimination and stigmatization, and challenges in accessing basic health care, social services and employment.

19. The United Nations subregional team noted with concern that the police did not always demonstrate appropriate treatment towards victims of gender-based violence or towards lesbian, gay, bisexual, transgender and intersex persons.

Summary of Stakeholder's Information

4. The Inter-American Commission on Human Rights (IACHR) noted that it had been informed that organizations representing lesbian, gay, bisexual, transgender and intersex persons in Dominica were afraid to carry out their human rights defence work because of the widespread violence and discrimination against such persons in Dominica. According to the information received, participation in strategic litigation before national courts against laws and statutes that discriminate against or have a negative impact on lesbian, gay, bisexual, transgender and intersex persons has exposed human rights defenders to worrying levels of violence, including death threats, intimidation and violent attacks.

B. SOGIESC Advanced Questions for Dominica

N/A

C. Dominica's Working Group Session

- **Opening remarks:** While Dominica acknowledges that there has not been an amendment to the law that impacts on members of the LGBTI community it is not correct to state that, and I quote from the report: "participation in strategic litigation before national courts against laws and statutes that discriminate against or have a negative impact on lesbian, gay, bisexual, transgender and intersex persons has exposed human rights defenders to worrying levels of violence, including death threats, intimidation and violent attacks". In fact, over the last five years, there were no cases of any violence or death threats of LGBTI people reported to the police. Additionally, access to health care is not denied to LGBTI persons. No one is required to state or are they asked about their status nor denied treatment as a result of their sexual orientation.
- **Intervention made after 37 interventions:** Also, on the rights of LGBTI persons. Of course this is a very sensitive issue for us in Dominica and I think it requires a process and it is something that regard has to be taken off, but as I indicated it would require some process to be undergone.

D. Recommendations for Cycle III (2019)

a) Remarks of States

- **Chile:** Chile is also concerned about the discrimination that affects LGBTI persons and the enforcement of the law that punishes consensual relations between people of the same sex.
- **Iceland:** . We welcome steps taken by Dominica to prosecute officials who committed abuses but deeply regret intolerance regarding sexual orientation and gender identity.
- **Netherlands:** However, the Netherlands is concerned about persisted discrimination and violence against LGBTI persons.
- **Spain:** We note with concern the legal and social discrimination to which the LGTBI collective in Dominica is subject.

b) The following recommendations have been examined by Dominica, and have been noted by Dominica.

- **Australia:** Take measures to reduce the societal stigma faced by LGBTI persons, including repealing provisions in national law that criminalize same sex relations, including in the Sexual Offences Act (6.40)
- **Canada:** Advance protections for LGBTI persons by prohibiting discrimination based on sexual orientation, or gender identity (6.41)
- **France:** Decriminalize homosexual relations and fight discrimination against LGBTI persons (6.42)
- **Germany:** Repeal all legislation and provisions that criminalize same-sex relations including Article 16 of the Sexual Offences Act and implement measures to effectively prevent discrimination and social stigmatization of individuals based on sexual orientation and gender identity (6.43)
- **Honduras:** Strengthen specific legislation to combat discrimination based on disabilities, sexual orientation, gender identity or social status (6.35)
- **Iceland:** De-criminalize same-sex acts (6.44)
- **Iceland:** Take all measures to protect LGBTI individuals, investigate all acts of violence motivated by the sexual orientation or gender identity of the victim, and bring the perpetrators to justice (6.45)
- **Iceland:** Amend anti-discrimination laws to include discrimination based on sexual orientation, gender identity and sex characteristics (6.46)
- **Ireland:** Adopt concrete measures to combat discrimination based on sexual orientation and gender identity, including by repealing Article 16 of the Sexual Offences Act 1998, to decriminalise consensual same-sex relations (6.47)
- **Italy:** Reinforce the anti-discriminatory legal framework in order to provide for a strengthened protection of the rights of the LGBTI community (6.48)
- **Mexico:** Promote a legal framework that protects persons from all forms of violence and discrimination based on sexual orientation and gender identity, and review the Sexual Offences Act 1998, which criminalises consensual same-sex relations between adults (6.49)
- **Myanmar:** Take measures to address discrimination based on sexual orientation or gender identity (6.50)

- **Netherlands:** Protect LGBTI persons against violence and discrimination, in line with SDG 10, by amending section 14 and 16 of the Sexual Offences Act to decriminalize consensual same-sex conduct (6.51)
- **Spain:** Amend the Sexual Offences Act to decriminalize consensual same-sex sexual activity between adults and adopt measures to protect defenders of the rights of this community (6.52)
- **United Kingdom:** Repeal all legal provisions which discriminate against persons on the grounds of their sexual orientation and gender identity, including relevant language in the Sexual Offences Act (6.53)
- **United States of America:** End criminalization of consensual same-sex sexual activity between adults (6.54)

E. Recommendations for Cycle II (2014)

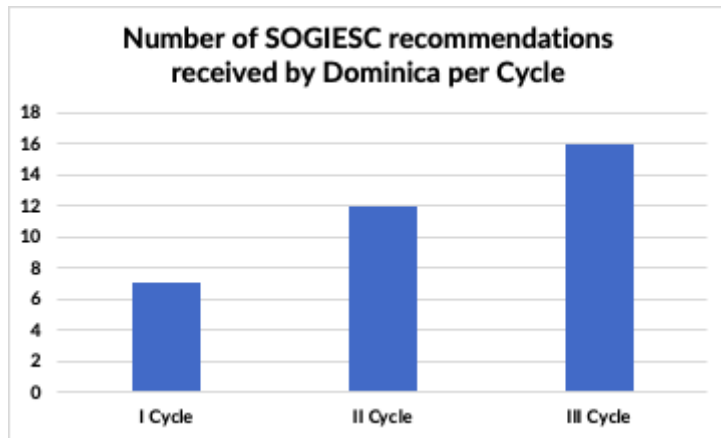
RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Take the necessary measures to reduce prejudices and discrimination based on the sexual orientation of the person	Argentina	Noted
Repeal provisions in national law that criminalize same sex relations, including in the Sexual Offences Act, and take steps to ensure the rights of these persons are protected	Australia	Noted
Make every effort to reduce discrimination based on sexual orientation and consider abolishing all legislation which entails constraints to the realization of the rights of the lesbian, gay, bisexual and transgender population, including laws which criminalize sexual relations between consenting adults of the same sex	Brazil	Noted
Step up the implementation of measures to reduce discrimination based on gender and sexual orientation, including awareness activities.	Chile	Noted
Decriminalize homosexuality and combat discrimination based on sexual orientation or gender identity	France	Noted



Repeal all provisions that criminalize same sex relations, including in particular article 16 of the Sexual Offences Act	Germany	Noted
Decriminalize consensual adult same-sex activity by amending article 14 and repealing article 16 of the Sexual Offences Act	Ireland	Noted
Reinforce its anti-discriminatory legal framework in order to provide for a strengthened protection of the rights of the lesbian, gay, bisexual, transgender and intersex community	Italy	Noted
Establish anti-discrimination laws and regulations ensuring that lesbian, gay, bisexual and transgender persons and other vulnerable groups enjoy equal treatment	Netherlands	Noted
Intensify its efforts to reduce discrimination based on gender and sexual orientation	Portugal	Noted
Repeal all provisions that discriminate against persons on the grounds of their sexual orientation or gender identity, including those in the Sexual Offences Act	United Kingdom	Noted
Modify existing sections of the Criminal Code that apply to buggery and indecency so that same-sex sexual activity between consenting adults is not criminalized, and adopt legislation that prohibits discrimination on the basis of sexual orientation and gender identity	United States of America	Noted



F. Graphic Comparison Between Cycles (1–3)



G. [Video of Dominica’s UPR Working Group Session](#)

H. [SOGIESC Mentions During Dominica’s UPR Outcome](#)

N/A



EQUATORIAL GUINEA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 13 MAY 2019, 14:30 – 18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 16 MAY 2019, 16:30 – 18:00

During the 33rd UPR Working Group Session, Equatorial Guinea received 3 SOGIESC recommendations. It accepted all 3 recommendations.

A. SOGIESC Information

National Report

76. The Ministry of Health's working paper on sexual and reproductive rights stipulates that everyone should be able to enjoy sexual and reproductive rights without discrimination. Article 15.1 of the Constitution makes discrimination based on sexual orientation a punishable offence.

Compilation of UN Information

N/A

Summary of Stakeholder's Information

10. JS2¹⁵ noted that homosexuality, lesbianism and other forms of sexual diversity were considered a pathology in Equatorial Guinea, even by government institutions. The diagnosis and treatment of their "manifestations" were governed by a protocol involving distinct stages that clearly violated the dignity and rights of persons with a gender identity that did not fall within the socially established gender binary. It added that, although homosexuality was not criminalized under the law of Equatorial Guinea, nor was homophobia; that legal vacuum made the country a haven for homophobic practices.

11. According to JS2, although there was no anti-homosexuality law, the illegal fine imposed in police stations for being homosexual apparently ranged between 50,000 and 150,000 francs (90 to 270 dollars). JS2 also noted the testimony of 10 lesbian, gay, transgender, bisexual or intersex women who were allegedly the victims of physical, sexual and psychological abuse in prisons and, above all, in military and police training academies. JS2 took note of the allegations concerning 30 cases of forced pregnancy among lesbian, gay, transgender, bisexual or intersex women documented in the cities of Malabo and Bata. As a consequence, the young mothers had high rates of depression and alcohol and drug dependence. It also reported physical assaults and arbitrary imprisonment.

¹⁵ Joint submission 2 submitted by: Igualdad y Derechos Humanos de la Mujer em África (IDHMA), Malabo (Equatorial Guinea); la Asociación Pro Derechos Humanos de España (APDHE); EG Justice; SEJOF;



B. SOGIESC Advanced Questions for Equatorial Guinea

- **United States of America:** What steps is the government taking to protect LGBTI individuals from violence and serious forms of discrimination?

C. Equatorial Guinea’s Working Group Session

- **Opening remarks:** On discrimination against LGBTI individuals, article 15 of our fundamental law, paragraph 1, there is a formal statement that they should not be discriminated against.

D. Recommendations for Cycle III (2019)

a) Remarks of States

- **Iceland:** . We also note with concern reports of inter alia unlawful or arbitrary killings by government agents, violence against women and LGBTI individuals, and widespread impunity.

b) The following recommendations have been examined by Equatorial Guinea and enjoy the support of Equatorial Guinea:

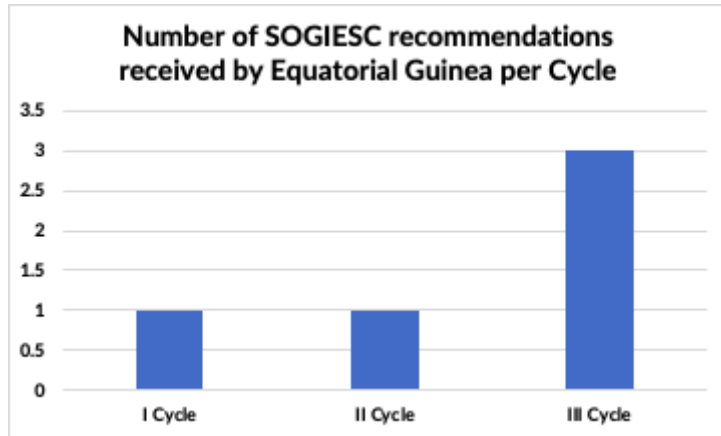
- **Dominican Republic:** Take the necessary political and legislative steps to combat discrimination on the grounds of sexual orientation and gender identity (6.46)
- **Iceland:** Take all measures to combat stigmatization of and discrimination against LGBTI individuals and promote and protect their human rights (6.47)
- **Montenegro:** Prevent and combat torture after arrest and during interrogations in police stations, and sexual violence against women prisoners and LGBT persons and bring to justice all suspected law enforcement officials who participated in those acts (6.65)

E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Initiate an awareness-raising campaign on the importance of equal rights for lesbian, gay, bisexual and transgender persons in order to foster a climate of true social acceptance, in the spirit of the Constitution of Equatorial Guinea	Netherlands	Noted



F. Graphic Comparison Between Cycles (1–3)



G. [Video of Equatorial Guinea’s UPR Working Group Session](#)

H. [SOGIESC Mentions During Equatorial Guinea’s UPR Outcome](#)

N/A



ETHIOPIA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 14 MAY 2019, 09:00 – 12:30
DATE AND TIME OF THE ADOPTION OF THE REPORT: 16 MAY 2019, 16:30 – 18:00

During the 33rd UPR Working Group Session, Ethiopia received 5 SOGIESC recommendations. It noted all 5 recommendations.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

N/A

Summary of Stakeholder's Information

N/A

B. SOGIESC Advanced Questions for Ethiopia

- **United States of America:** Will the Government consider changing its position towards the decriminalisation of consensual same-sex activity between adults?
- **Spain:** What measures are being taken to combat the discrimination and attacks suffered by people belonging to the LGBTI collective? And how is it expected to include this group in the National HIV Prevention Plan?

C. Ethiopia's Working Group Session

N/A

D. Recommendations for Cycle III (2019)

a) Remarks of States

N/A



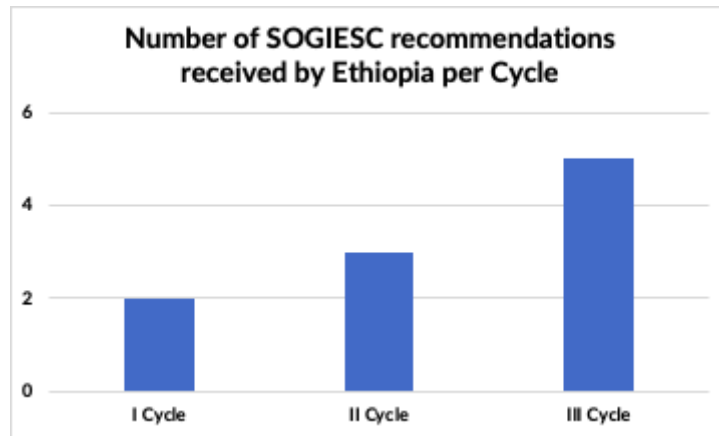
b) The following recommendations have been examined by Ethiopia and have been noted by Ethiopia:

- **Australia:** Take measures to reduce the societal stigma faced by LGBTI persons, including repealing provisions in national law that criminalize consensual same sex relations (6.131)
- **Iceland:** Conduct awareness-raising campaigns to prevent the stigmatization of LGBTI individuals, with particular emphasis on health professionals (6.130)
- **Iceland:** Amend the Ethiopian National Road Map for HIV Prevention and other national health policies to include LGBTI individuals as "key populations" (6.262)
- **Mexico:** Recognize in the legislation the right to equality and non-discrimination of LGBTI people and take measures to combat violence against them and guarantee access to justice for them (6.132)
- **Spain:** Decriminalize consensual sexual relations between same sex persons (6.80)

E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Extend measures to combat discrimination to the entire vulnerable population, which is victim of stereotypes and discrimination, particularly discrimination based on sexual orientation, and thus amend the criminalization established in the Penal Code relating to that sector of the population	Argentina	Noted
Reform the Penal Code with the aim of decriminalizing homosexuality	France	Noted
Amend the Penal Code to decriminalize homosexuality	Portugal	Noted

F. Graphic Comparison Between Cycles (1–3)



G. [Video of Ethiopia's UPR Working Group Session](#)

H. SOGIESC recommendations shared by HRDs during ILGA's UPR advocacy week in Geneva:

1. Recognition and inclusion of LGBTIQ related issues into political, social and health discussions and reforms.
2. Recognition of LGBTIQ persons right to life, security and liberty, right to honor and reputation, right to equality and equal protection under the law, the right to right to freedom of opinion and expression and right to access of justice.
3. Implementation of objectives of constitutionally mandated bodies like the Ethiopian Human Rights Commission (EHRC) in the protection and promotion of Human Rights of LGBT individuals.
4. Amendment of the Ethiopian National Road Map for HIV Prevention and other national health policies with the inclusion of the LGBTIQ individuals as "key populations";
5. Elimination of barriers to access to health care services by LGBTI persons; barriers such as fear of being exposed by healthcare professionals or receiving discriminatory treatment.
6. Provisions of health services and materials such as lubricants, dental dams and PrEP by the government or allowing other third-party institution to provide such materials.
7. Awareness raising and sensitization of health care professionals and other civil servants (such as police) by providing trainings with a particular emphasis on health professionals to uphold their medical oaths to not discriminating anyone, including LGBT persons.
8. In consultation with civil society organizations, develop a national framework towards mental health as it is an issue that is faced by the general population.

I. [SOGIESC Mentions During Ethiopia's UPR Outcome](#)

- **COC Netherlands:** It regretted that despite the major strides in fundamental rights and freedoms LGBT persons continue to live in fear of violence and prosecution. It deplored that same-sex activity is still criminalized under the 2005 Criminal Code and that access to health services remains to be a major barrier affecting the quality of life for LGBT persons in Ethiopia. It also highlighted the need for action in the light of the anti-LGBT sentiments rampant in the country.



NICARAGUA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 15 MAY 2019, 14:30 – 18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 17 MAY 2019, 17:00 – 18:00

During the 33rd UPR Working Group Session, Nicaragua received 5 SOGIESC recommendations. It will provide an answer no later than the 42nd session of the Human Rights Council

A. SOGIESC Information

National Report

35. The labour rights of 1,459,096 workers were safeguarded through labour inspections intended to guarantee labour protection and conditions of non-discrimination on the grounds of, inter alia, gender, sexual orientation, physical appearance, financial position or HIV/AIDS status. Children and adolescents are guaranteed the enjoyment of their rights. Monitoring was carried out and 6,645 special child labour inspections were conducted. A total of 326 working children under the age of 14 were rescued and sanctions were imposed on their employers in accordance with the law. A total of 10,844 adolescents received protection and were guaranteed a safe environment in which to work, in accordance with provisions set out in the hazardous jobs list.

126. Inquiries were conducted into respect for the human rights of people of diverse sexuality, the right of children and adolescents with disabilities to an inclusive education in mainstream schools, the right of children and adolescents to protection from the nonpayment of child support, and the human rights of child and adolescent health-system users.

Compilation of UN Information

N/A

Summary of Stakeholder's Information

11. JS3¹⁶ noted that new legislation recognizing the rights of LGBTIQ persons had not been approved and that the institutional base of the Special Human Rights Procurator for Sexual Diversity had been weakened. JS16¹⁷ stated that lesbian, gay, bisexual, transgender and intersex persons had been marginalized, as the statistics showed; it said that that translated into a lack of specific public policies that took account the real needs of lesbian, gay, bisexual, transgender and intersex persons, particularly with regard to education, work, health and social services. Similar concerns were voiced by Joint Submission 1 (JS1).

¹⁶ Joint submission 3 submitted by: Asociación Diversidad Sexual Nicaragüense ADISINIC; Mesa Nacional LGBTIQ; Operación Queer (Nicaragua).

¹⁷ Joint submission 16 submitted by: Agrupacion de Mujeres Trans y Culturales (AMTC); Iniciativa por los Derechos Sexuales (SRI) (Nicaragua).



12. JS16 recommended incorporating lesbian, gay, bisexual, transgender and intersex persons into the national statistical system, taking into account gender identity and sexual orientation. JS3 recommended amending the Criminal Code to define the offence of inciting hatred on the basis of sexual orientation or gender identity. JS1¹⁸ recommended passing a law on gender identity to ensure the protection of the LGBTIQ population from discrimination based on sexual orientation or gender identity. A similar recommendation was made by JS16.

13. JS3 recommended creating an inter-agency committee to devise comprehensive public policies on the genuine, broad-based inclusion of LGBTIQ people.

30. JS16 reported that there was no adequate legal framework, and no public policies, enabling the investigation and prosecution of acts of violence against lesbian, gay, transgender, bisexual or intersex persons.

54. JS16 recommended making legislative amendments to ensure genuinely equal rights for same-sex couples, in particular the right to marriage. JS3 recommended reforming the Family Code to cover gender identity and sexual orientation.

B. SOGIESC Advanced Questions for Nicaragua

- **United States of America:** We are troubled by increased violence against women; continued attacks against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons; and discrimination against persons with disabilities and members of ethnic minority groups and indigenous communities. What has the government done to prevent such attacks, improve access to justice, and fight discrimination against these groups?
- **Germany:** What measures is Nicaragua taking to protect vulnerable groups, including indigenous and LGBTI people, from oppression and discrimination?

C. Nicaragua's Working Group Session

N/A

D. Recommendations for Cycle III (2019)

a) Remarks of States

N/A

¹⁸ Joint submission 1 submitted by: Centro de Información y Servicios de Asesoría en Salud; Artemisas; Asociación Nicaragüense de Transgeneras ANIT (Nicaragua);



b) The following recommendations have been examined by Nicaragua and enjoy the support of Nicaragua¹⁹:

- **Cyprus:** Establish comprehensive and transparent records of incidence of domestic violence, sexual violence, maternal mortality, as well as femicides and discrimination against LGBTQI (6.246)
- **Malta:** Improve the census methodology to have quantitative and qualitative data on the LGBTI population, as an essential basis for inclusive and human rights-based public policies (6.46).
- **Malta:** Release without delay LGBTI persons in detention after the events of April 2018 and guarantee dignified conditions for LGBTI persons arrested and detained for other reasons (6.66)

c) The following recommendations have been examined by Nicaragua and have been noted by Nicaragua:

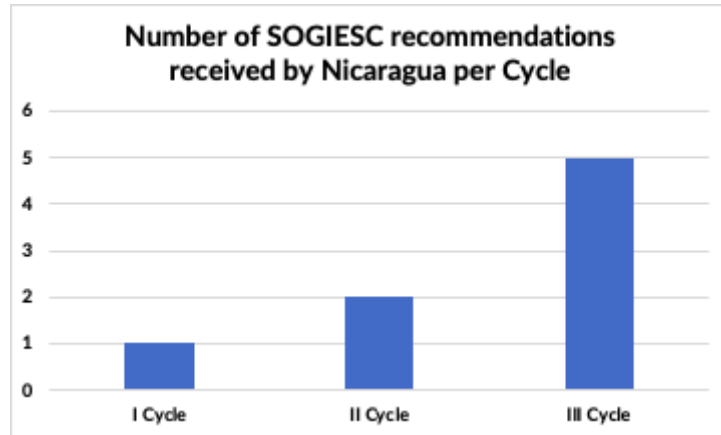
- **Iceland:** Revoke anti-terrorism laws that allow for persecution of human rights defenders, including women and LGBTI defenders, journalists and peaceful protesters (6.109)
- **Australia:** Eliminate gender-based violence, and discrimination and violence directed at indigenous and LGBTI minorities (6.242)

E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Continue with the measures aimed at combating stereotypes and discrimination suffered by lesbian, gay, bisexual, transgender and intersex persons	Argentina	Accepted
Continue the increased respect of the rights of lesbian, gay, bisexual and transgender people and ensure the approval of an inclusive Family Code respectful of the right to gender identity and sexual orientation	Norway	Accepted

¹⁹The following hostile recommendation has been made by Egypt: Protect the family and its development considering it the main unit for the development of society (6.175)

F. Graphic Comparison Between Cycles (1–3)



G. [Video of Nicaragua’s UPR Working Group Session](#)

H. SOGIESC recommendations shared by HRDs during ILGA’s UPR advocacy week in Geneva: Mesa Nacional LGBTIQ

1. To modify legislation (Family Code, Criminal Code, Labor Code and Anti-Money Laundering Law, Terrorist Financing and Proliferation of Weapons of Mass Destruction Law) to ensure that LGBTIQ people are not further discriminated against for the defense of their human rights and their claim for justice and democracy.
2. To order the immediate release of LGBTIQ persons detained after the events of April 2018 and guarantee dignified conditions for LGBTIQ persons arrested and detained for other reasons.
3. Adopt before the next UPR cycle a Gender Identity Law that legally recognizes transgender people through appropriate mechanisms that are easily accessible (fast, accurate, clear and simple), free of charge and non-pathologizing.
4. Guarantee the participation of LGBTIQ people in the administration of justice by authorizing their incorporation as judicial facilitators.
5. Immediately stop the campaign to discredit leaders of the April 2018 protests, specifically, but not exclusively, those based on sexual orientation that has reinforced the stigma towards LGBTIQ people.
6. Form an Inter-institutional Committee for the formulation of comprehensive public policies for real inclusion of the LGBTIQ population in a broad sense. It should include representatives of LGBTIQ people from all over the country.
7. Improve the census methodology to have quantitative and qualitative data on the LGBTIQ population, as an essential basis for public policies on inclusion and with a human rights approach.



I. SOGIESC Mentions During Nicaragua's UPR Outcome

- **Opening remarks:** We continue to protect civil society organizations and individuals. All civil society organizations are obliged to comply with our legislation and the objectives and purposes for which they were constituted and for which they were granted legal personality. The government of Nicaragua continues to work with all vulnerable groups which were excluded by policies instituted by the previous governments. We promote and defend the human rights through the execution of plans, programmes and projects with a direct impact on the enjoyment and fulfillment of the rights of children, adolescents, youth, women, persons with disabilities, people of African descent, the elderly, LGBTI groups, among others.
- **Civicus:** It stated that land rights defenders, women's and LGBTI rights activists, journalists and bloggers have been routinely stigmatised, harassed, criminalised, arbitrarily arrested and physically attacked.
- **Action Canada for Population and Development:** It regretted that Nicaragua noted a number of recommendations aiming to improve the data collection over LGBTI persons and also to address violence and discrimination against indigenous peoples and LGBTI persons. It also regretted that no recommendation was made regarding legal gender recognition and same-sex marriage.



NORWAY UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 6 MAY 2019, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 10 MAY 2019, 15:00 – 18:00

During the 33rd UPR Working Group Session, Norway received 3 SOGIESC recommendations. It accepted 2 recommendations and noted 1.

A. SOGIESC Information

National Report

13. The principle of non-discrimination is enshrined in the Constitution. The Equality and Anti-Discrimination Act, in force since January 2018, prohibits discrimination on the basis of gender, pregnancy, leave in connection with childbirth or adoption, care responsibilities, ethnicity, religion, belief, disability, sexual orientation, gender identity, gender expression, age or combinations of these factors. The Act includes provisions on universal design and accommodating the individual needs of people with disabilities. Public authorities, employers and employer and employee organisations must make active, targeted and systematic efforts to promote equality and prevent discrimination. Proposed amendments to strengthen this duty have been circulated for comment.

20. Since 2009, lesbian and gay couples have had the same right to marry as heterosexual couples. As a general rule, lesbians and gay people can adopt children along the same lines as heterosexuals. Social attitudes towards and living conditions for LGBTIQ people are improving, but research shows that targeted, systematic efforts in this field are still needed. The Norwegian Government's action plan against discrimination based on sexual orientation, gender identity and gender expression (2017–2020) lists action in these areas: safe social environments and public spaces; equal access to public services; and better quality of life for particularly vulnerable groups. The Government will review the protection against discrimination provided by the Penal Code, and consider whether protection against discrimination on the basis of gender identity and gender expression should be included.

21. Since 2016, people whose gender identity differs from their registered gender have had the right to alter the registration. The number of referrals to the National Treatment Centre for Transsexualism has increased in recent years, and its capacity is being increased. In addition, national guidelines for treating gender incongruence and a comprehensive health service for this group are being developed. This work is to be completed by the end of 2020.

33. The Penal Code prohibits hate speech motivated by a person's skin colour, ethnic or national origin, religion or life stance, homosexual orientation, or disability. This provision is interpreted in a way that takes into consideration the right to freedom of expression. The Penal Code also states that if an offence is motivated by the factors above or by other circumstances relating to groups with a particular need for protection, this is an aggravating factor to be considered in connection with



sentencing. All police districts are expected to use the same definitions and registration routines for hate crime, and the National Police Directorate has issued guidelines.

35. The Government has provided funding for the Council of Europe's Young People Combating Hate Speech Online campaign since 2014, and in 2016, it presented a strategy against hate speech for the period 2016–2020. The objective of the strategy is to combat hate speech on the basis of ethnicity, religion, gender, disability, sexual orientation, gender identity and gender expression. Its main focus areas are: forums for discussion, children and youth, the legal system, employment, the media sector, and knowledge and research.

43. The Penal Code's provision on torture ensures that Norway fulfils its obligations under CAT. A public official who, for specific reasons, causes another person injury or serious physical or mental pain is to be subject to a penalty of imprisonment. An act of this kind is considered to be torture if, for example, the pain or injury is inflicted because of the person's religion or life stance, skin colour, national or ethnic origin, homosexual orientation, or gender. Unlike in previous versions of the Penal Code, disability has now also been added to this list. The Government will consider whether any other prohibited grounds of discrimination should be included.

80. Ensuring equal access to healthcare is a political goal and a legal obligation. However, there are challenges due to language problems, cultural differences and the fact that certain groups have special needs (e.g. people with minority backgrounds, people with intellectual disabilities and sexual minorities). As of September 2017, health and social care study programmes are required to cover topics such as inclusion, equal opportunities and nondiscrimination, irrespective of gender, ethnicity, religion, belief, disability, sexual orientation, gender identity, gender expression and age. The Norwegian Institute of Public Health conducts research and disseminates knowledge on migrant health by providing guidance, advice and courses for health personnel. Work is also being done to develop tailored information for immigrants, including asylum seekers and refugees, for example aimed at raising awareness of health rights. The internationally recognised Norwegian Centre for Violence and Traumatic Stress Studies works, among other things, to increase knowledge about the treatment of torture victims. These centres of expertise cooperate closely with the five regional resource centres that have specialist expertise in working with people affected by violence and sexual abuse, traumatic stress, migration or suicide.

88. All pupils have a statutory right to a safe and supportive school environment that promotes their health, well-being and learning. There is zero tolerance in schools for harassment or discrimination in any form. Schools have a particular responsibility to protect pupils who are vulnerable due to factors such as gender, ethnicity, religion, belief, disability, sexual orientation, gender identity or gender expression. In 2017, pupils' rights were strengthened through amendments to the legislation. A new complaints system was established and there is now an independent body that ensures that pupils' rights are respected. Pupils can make complaints themselves. The municipalities are responsible for ensuring compliance with the legislation in this area.



Compilation of UN Information

42. UNESCO encouraged Norway to ensure equal educational opportunities for all, especially those belonging to vulnerable groups, including children with a migration background, children from indigenous and ethnic minorities, refugees and asylum seekers. Likewise, the Committee on the Rights of the Child recommended that Norway increase its efforts to implement a zero-tolerance approach to discrimination on the grounds of race, migration status, sexual orientation or gender identity in the school context.

Summary of Stakeholder's Information

36. NGO-Forum stated that new legislations had strengthened the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. However, LGBTI people still experienced discrimination. CoE-ECRI²⁰ stated that transgender persons faced intolerance and transphobia. Gender identity was not mentioned in the hate-crime provisions. CoE-ECRI recommended that Norway include gender identity in the Criminal Code concerning hate motivated offences. Joint Submission (JS) 1²¹ and NGO-Forum made a similar recommendation.

60. ECPAT Norway stated that the risk of children becoming victims of sexual exploitation had been increasing with the use of the Internet and mobile technologies. Unaccompanied minors, LGBTQ children and children belonging to minorities and indigenous groups had faced higher risk of becoming a victim of sexual exploitation than other children. ECPAT²² Norway noted an increase in reported cases of sexual abuse against children, particularly cases of rape against children aged 14 and younger. The number of incidents of sexual extortion online and grooming had also increased.

B. SOGIESC Advanced Questions for Norway

N/A

C. Norway's Working Group Session

- **Opening remarks:** The Government works actively to ensure that every Norwegian has the opportunity to succeed, regardless of their gender, age, ethnicity, religion, disability, sexual orientation or gender identity.
- We are working continuously to safeguard the interest and rights of LGBTIQ people in Norway. The Government will review the protection against discrimination, and consider whether protection against discrimination on the basis of gender identity and gender expression should be included in the Penal Code, as it already is in the equality- and anti-discrimination act.
- We are working to ensure that everyone can participate in the public debate regardless of gender, ethnicity, religion, disability and sexual orientation - without being threatened or harassed.

²⁰ European Commission against Racism and Intolerance

²¹ Joint submission 1 submitted by: The Norwegian Children and Youth Council and Queer Youth, Oslo Norway;

²² End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes.



- The government goal is to secure LGBTIQ rights and to combat discrimination on grounds of sexual orientation, gender identity and gender expression. Research shows that there is still need to strengthen LGBTIQ rights and quality of life, to change the attitudes and combat hate speech and hate crime against these groups. On this basis, the government is working to implement the action plan for the period of 2017-202 with the aim to ensure that LGBTIQ persons experience society as safe and inclusive.

D. Recommendations for Cycle III (2019)

a) Remarks of States

- **Argentina:** We congratulate Norway for the Action Plan against Discrimination on the Grounds of Sexual Orientation, Gender Identity and Gender Expression (2017-2020).
- **Australia:** Australia welcomes Norway’s action plan against discrimination based on sexual orientation, gender identity and gender expression.

b) The following recommendations have been examined by Norway and enjoy the support of Norway.

- **Canada:** Intensify its efforts to prevent and eliminate all forms of discrimination, hate speech, and hate crimes based on ethnicity, sexual orientation, gender, and gender expressions (6.28)
- **Spain:** Guarantee the right and access to healthcare for transgender people (6.153);

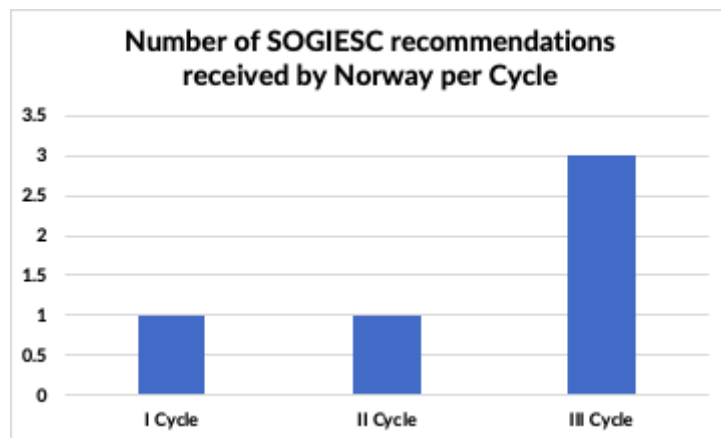
c) The following recommendations have been examined by Norway and have been noted by Norway:

- **Iceland:** Include gender, gender identity and gender expressions as grounds of discrimination in the Penal Code articles protecting against hate crimes (6.80)

E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Continue to take steps to ensure the rights of LGBT persons, women, ethnic minorities, and persons with disabilities are protected, including through implementation of the four new anti-discrimination acts that entered into force in January 2014	Australia	Accepted

F. Graphic Comparison Between Cycles (1–3)



G. [Video of Norway's UPR Working Group Session](#)

H. [SOGIESC Mentions During Norway's UPR Outcome](#)

- **Opening remarks:** The combined Equality and Anti-Discrimination Act has been in force since January last year [2018]. It prohibits discrimination on the basis of gender, age, ethnicity, religion, belief, disability, sexual orientation, gender identity, gender expression, pregnancy, leave in connection with childbirth or adoption, and care responsibilities. The Government continuously works to ensure consistent implementation of anti-discrimination legislation (...) The Penal Code prohibits hate speech motivated by a person's skin colour, ethnic or national origin, religion or life stance, sexual orientation, or disability. Norwegian authorities are implementing the Government's Strategy against Hate Speech, which also includes gender, sexual orientation, gender identity and gender expression.



PORTUGAL UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 8 MAY 2019, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 10 MAY 2019, 15:00 – 18:00

During the 33rd UPR Working Group Session, Portugal received 2 SOGIESC recommendations. It accepted the 2 recommendations.

A. SOGIESC Information

National Report

B. Racism and racial discrimination

18. In this domain, the following measures are to be highlighted:

(...)

(b) Adoption of a National Equality and Non-Discrimination Strategy “Portugal + Equal”. Aligned with the 2030 Agenda, it emphasises the multidimensional nature of disadvantage stemming from the intersection of various discrimination factors, such as sex with race and national or ethnic origin. It comprises three Action Plans on: (i) equality between women and men; (ii) preventing and combating violence against women and domestic violence²⁷, including female genital mutilation²⁸; (iii) combating discrimination on grounds of sexual orientation, gender identity and expression and sexual characteristics;

97. Portugal has 40 shelters for women and minors, including one for men with 6 vacancies, shelters for disabled women and women with mental illnesses (totalling 17 vacancies). There are 26 emergency centres for women including 1 for men and 1 for LGBTI people. 98. There are 122 support centres, including for women victims of sexual violence, for men victims of DV and sexual abuse, and LGBTI people.

Best protection of children’s rights

(...)

114. It is worth highlighting some of the relevant modifications:

(...)

- the general prohibition of any treatment or medical intervention which implies a change on the body or sexual characteristics of an intersex child until the gender identity is manifested;

Compilation of UN Information

N/A



Summary of Stakeholder's Information

13. The European Union Agency for Fundamental Rights (EU-FRA) mentioned that the Penal Code was amended to punish with imprisonment ranging between six months and five years, anybody who established an organisation or developed propaganda activities inciting discrimination, hatred or violence against a person or group of persons because of their race, colour, ethnic or national origin, ancestry, religion, sex, gender, sexual orientation, and physical or intellectual disability.

37. EU-FRA noted that married or cohabitating heterosexual or lesbian couples, as well as all women irrespective of their civil status or sexual orientation were entitled to assisted reproduction. EU-FRA noted that since 2016, it became possible for same-sex couples to adopt children.

39. EU-FRA mentioned that Portugal adopted legislation that resulted in gender identity being included among the protected grounds of discrimination in the field of employment and occupation. CoE-ECSR²³ referred to the right to equal opportunities and treatment in employment and occupation without sex discrimination and noted that in equal pay cases, legislation only permitted comparisons of pay between employees working for the same company.

B. SOGIESC Advanced Questions for Portugal

N/A

C. Portugal's Working Group Session

- **Opening remarks:** (...) A new National Strategy for Equality and Non-Discrimination, endowed with a structural approach to combating all forms of discrimination and violence against women and LGBTI people, was also adopted. (...) The provision and degree of specialization of the services provided for women with disabilities and in mental health conditions, LGBTI persons and victims of sexual violence has been increased. (...) This and other initiatives set the role of Portugal at the forefront of promoting the rights of LGBTI people. As early as 2016, discrimination in access to adoption and filiation had been eliminated, and legally allowed to same-sex couples.
- In 2018 an Action Plan was approved to combat discrimination based on sexual orientation, gender identity and expression and sexl characteristics, which aims to promote knowledge about the real situation of the needs of LGBTI people and the forms of discrimination that they are victims. This plan calls for several government areas, including Education, and NGOs.
- **Closing remarks:** (...)We also increase the supply and specialization of the available services for women with disabilities and also who have mental health conditions, also for LGBTI and those who are victims of sexual violence.
- (...)As regards to intersex childrens, our legislation specifically enshrines the right to protection of certain sexual characteristics, prohibiting intervention which is surgical, any treatment, pharmacological treatment of any other nature until the time when gender identity is made manifest. Also, we have expressly guaranteed the right of self-determination of gender identity and gender expression. Therefore, there is no need to submit a clinical

²³ Council of Europe: Portugal and the European Social Charter



report proving any diagnosis of gender identity or confusion. This underpins Portugal's role at the very vanguard in promoting the right of LGBTI persons. In 2016 we eliminated discrimination in the access to adoption, filiation. It is now legally permitted for same sex couples to adopt. We have a action plan in 2018 to combat discrimination based on sexual orientation, gender identity and expression and sex characteristics, promoting knowledge of the real situation of LGBTI individuals and also raising awareness of the forms of discrimination that they are victims of, including rolethe areas of education,as well as involving NGOs.

D. Recommendations for Cycle III (2019)

a) Remarks of States

- **Canada:** We also welcome the positive measures taken by Portugal to protect the rights of LGBTI persons and recognize the steps taken to prevent and respond to domestic violence, as well as the legislative measures put in place to fight trafficking in persons and assist its victims in the context of its National Equality and Non-Discrimination Strategy.
- **France:** France welcomes the human rights situation in Portugal and its improvement since its last visit to the UPR, in particular as regards the fight against inequalities between women and men, the recognized right to adoption same-sex couples and the fight against harassment.
- **Germany:** Germany appreciates Portugal’s commitment to promote and protect human rights, in particular regarding the fight against discrimination based on sexual orientation and gender identity and Germany welcomes the recently taken steps to combat domestic violence.
- **Iceland:** We also applaud Portugal for being a champion for LGBTI rights.

b) The following recommendations have been examined by Portugal and enjoy the support of Portugal, which considers that they are already implemented or in the process of implementation:

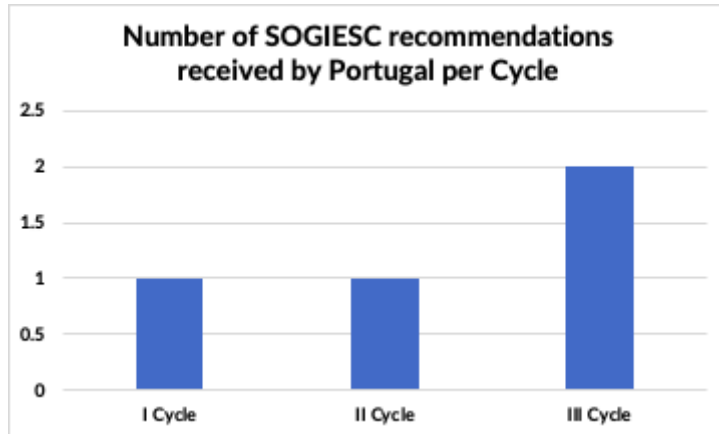
- **Uruguay:** Adopt measures to combat discrimination, exclusion and social segregation on the basis of national origin, race, sexual orientation or other forms of intolerance (7.17)
- **Belgium:** Strengthen measures to combat discrimination based on gender, race or sexual orientation (7.20)

E. Recommendations for Cycle II (2014)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Take measures in order to allow the adoption of children by same-sex couples	Brazil	Noted



F. Graphic Comparison Between Cycles (1–3)



G. [Video of Portugal's UPR Working Group Session](#)

H. [SOGIESC Mentions During Portugal's UPR Outcome](#)

- **Opening remarks:** We are pleased to note that in general recommendations were made in a positive tone acknowledging Portugal's progress and efforts in many areas. Several countries praised the advances on the areas of LGBTI rights.



QATAR UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 15 MAY 2019, 09:00 – 12:30
DATE AND TIME OF THE ADOPTION OF THE REPORT: 17 MAY 2019, 17:00 – 18:00

During the 33rd UPR Working Group Session, Qatar received 3 SOGIESC recommendations. It noted all 3 recommendations.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

N/A

Summary of Stakeholder's Information

N/A

B. SOGIESC Advanced Questions for Qatar

N/A

C. Qatar's Working Group Session

D. Recommendations for Cycle III (2019)

a) Remarks of States

N/A

b) The following recommendations have been examined by Qatar, and have been noted by Qatar.

- **France:** Guarantee the rights of LGBTI individuals (6.67)
- **Australia:** Develop and implement anti-discrimination laws and government policies to address discrimination, particularly against individuals within the LGBTI community and women, including through improving access to marriage, divorce and child custody rights (6.68)

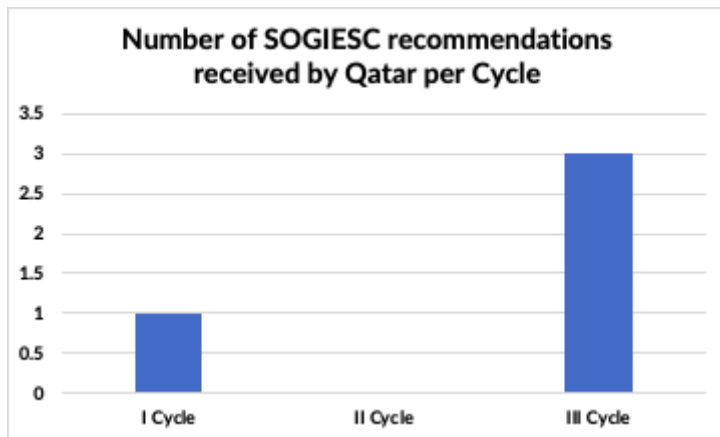


- **Iceland:** De-criminalize consensual same-sex acts and promote and protect the human rights of LGBTI individuals (6.74)

E. Recommendations for Cycle II (2014)

N/A

F. Graphic Comparison Between Cycles (1–3)



G. [Video of Qatar’s UPR Working Group Session](#)

H. [SOGIESC Mentions During Qatar’s UPR Outcome](#)

N/A