



UN Committee against Torture: 63rd Session

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RESUME:

- Recommendations on LGBTI issues for [Belarus](#), [Senegal](#) and [Tajikistan](#), including:
 - On LGBTI persons in detention (Belarus);
 - On hate crimes against LGBTI persons (Belarus, Tajikistan) and arrests and police violence because of sexual orientation (Senegal); investigation, prosecution and punishment for such incidents (Belarus, Senegal & Tajikistan); monitoring mechanisms and trainings for law enforcement officials (Belarus);
 - On decriminalisation of same-sex relations (Senegal);
 - A reference to transgender women in detention (Belarus); and
 - No stand-alone references to LB women or intersex persons.
- Questions on LGBTI for [Andorra](#), [Azerbaijan](#) and [Denmark](#), including on:
 - Hate crimes and hate speech (Andorra);
 - Police brutality (Azerbaijan); and
 - Surgeries towards intersex persons (Denmark).

- Next Session: [23 July to 10 August 2018](#)
 - Countries (main review): Chile, Mauritania, Russia, Seychelles
 - NGO report deadline: 25 June 2018 (to cat@ohchr.org)

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1. SUMMARY

The UN Committee against Torture published its Lists of Issues and Concluding Observations as a result of the [63rd Session](#) (23 April 2018 to 18 May 2018).

Questions on LGBTI issues were sent to 3 out of 6 other countries (Andorra, Azerbaijan, and Denmark), and **SOGIESC recommendations** were made for 3 out of 6 countries reviewed (Belarus, Senegal, and Tajikistan).

Reference was made to SOGIESC discrimination in all three country-recommendations. Nonetheless, some specific measures stand out, as: resolve the case of violence from public officials and inmates during detention (Belarus), have effective investigations of hate crimes caused by SOGI discrimination (Belarus and Tajikistan), train law enforcement and develop monitoring mechanisms of the measures taken by the State (Belarus), revoke the same-sex contact criminalization (Senegal), and publicly condemn acts of torture against LGBTI individuals (Tajikistan).

While the Committee referred to LGBTI individuals in its Concluding Observations on Belarus and Tajikistan, recommendations on Senegal, as well as List of Issues for Andorra addressed sexual orientation only.

A stand-alone reference (while without any following specific recommendations) was made to Belarus regarding transgender women's situation during detention. Particular questions on surgeries performed towards intersex children were addressed to Denmark.

Neither the situation of LB women nor specific challenges faced by them have been addressed by the Committee.

1.1. Concluding Observations

During its 63rd Session, the Committee reviewed periodic reports of Belarus, Czech Republic, Norway, Qatar, Senegal and Tajikistan.

SOGIESC recommendations were made for three countries. In two of the three cases LGBTI issues were also addressed in civil society submissions, having Senegal as an exception. The constructive dialogues also did not specifically address this topic for Senegal during its talks, despite the Committee having presented Senegal with recommendations – both before and in the current Concluding Observation.

Country	SOGIESC in previous CO*	SOGIESC in LOI**	SOGIESC in the constructive dialogues***	SOGIESC in CSS****	SOGIESC in current CO*
Belarus	Yes	No	Yes	Yes	Yes
Czech Republic	No	No	No	Yes	No
Norway	Yes	No	No	No	No
Qatar	No	No	No	No	No
Senegal	Yes	No	No	No	Yes
Tajikistan	Yes	Yes	Yes	Yes	Yes

*Concluding Observations

**List of Issues

***According to the press releases

****Civil Society Submissions

Belarus:

SOGIESC issues were addressed by only one [civil society submission](#), but the document was solely dedicated to Belarus' legislation in that area. No mention was made in the List of

Issues, although the country had received recommendations on sexual orientation and gender identity before.

The [constructive dialogue](#) indicated high levels of sexual violence and hate speech against “homosexual prisoners”, the latter perpetrated by prison officers. Only one case between 2014 and 2017 applied the hate crime legislation, and the Committee questioned if Belarus has collected data on SOGI motivated hate crimes.

In the Concluding Observations, the Committee specifically addressed the violence against LGBTI individuals and their particular vulnerability in detention sites. The Committee recommended the State to end discrimination and violence against LGBTI prisoners, as well as the degrading treatment received by them. Amongst other points that were raised, the Committee also stressed the necessity to guarantee effective investigations in cases of hate-motivated crimes.

Senegal:

Both the List of Issues and the Civil Society Submissions were silent in regard to LGBTI matters. Although Senegal had received prior recommendations on the topic, no specific mention was made in the documents of the 63rd Session.

There was also no mention during the [constructive dialogues](#) to the special challenges faced by LGBTI individuals in different situations in the country.

Nonetheless, the Concluding Observations addressed the ill-treatment received by members of the LGBTI community often caused by discriminatory reasons. Amongst the suggestions received by Senegal there was the necessity of nullifying article 319(3) of the Penal Code that prohibits consented same-sex relations.

Tajikistan:

Two [submissions](#) pertaining Tajikistan address LGBTI issues, being one of them solely dedicated to this topic. The List of Issues presented also includes mentions to SOGIESC and discrimination.

The [constructive dialogues](#) mentioned that although same-sex relations are not criminalized in the country, there is still big stigma over LGBTI individuals. LGBTI persons were even targeted in two campaigns focused on morality and sponsored by the Ministry of the Interior, the Office of Prosecutor General and the State Committee on Women's Affairs and Family. The existence of relevant statistics was questioned during the dialogues.

In its Concluding Observations, the Committee shed light to a myriad of situations faced by LGBTI individuals that are discriminatory, including torture, ill-treatment, sexual abuse, arbitrary detention and others. The Committee recommended Tajikistan to better protect its LGBTI individuals by developing protective legislation. The Committee also urged the condemnation of acts of torture and abuses, particularly by public officials, against LGBTI individuals.

1.2. Lists of Issues

As a result of its 63rd Session, the Committee also produced a set of questions for the States that will be reviewed in the future. While for Jordan, Liechtenstein, and Thailand there were no specific questions on SOGIESC, the Committee did ask Andorra, Azerbaijan, and Denmark about the situation of LGBTI rights in these countries.

The Committee requested [Andorra](#) to provide data on violence against vulnerable groups, including sexual orientation motivated and in school environment, hate crimes, and hate speech.

In case of [Azerbaijan](#), the Committee requested information on police brutality against individuals due to their actual or perceived SOGI, including on a specific case of 2017 in which around 150 individuals were detained and ill-treated.

In case of [Denmark](#), the Committee specifically requested information on intersex persons' autonomy in the country. This included *inter alia* the right not to be subjected during infancy to a non-urgent medical or surgical procedure aimed at determining the child's gender.

Four countries will be reviewed by the Committee during its 64th Session that will take place in Geneva from 23 July 2018 to 10 August 2018 – more information about the Session can be [found here](#). The countries listed under the LOI section of the present document have their Session dates yet to be determined by the Committee.

2. COMPILATION OF CONCLUDING OBSERVATIONS

Belarus – Concluding Observations – 63rd Session, 14 May 2018, 5th review

LGBTI people in detention

29. The Committee is concerned at reports received that lesbian, gay, bisexual, transgender and intersex people in penitentiary facilities are subject to abuse and stigmatization by public officials and fellow inmates. Violent clashes and humiliating and degrading treatment of homosexual prisoners by other inmates and their involuntary segregation from other inmates due to the criminal subculture and hierarchy in prison aggravate their conditions of detention. The Committee is also concerned at the reported involuntary placement of transgender women together with male detainees, which exposes them to a high risk of sexual assault (arts. 2, 11, 16).

30. The State party should:

(a) Take measures to protect lesbian, gay, bisexual, transgender and intersex people from violence by public officials and fellow inmates, and in particular protect transgender women from violence inflicted by male detainees;

(b) End the discrimination and violence against lesbian, gay, bisexual, transgender and intersex prisoners, abolish the practice of their degrading and involuntary segregation and all other degrading and humiliating practices that still persist in prisons; and investigate promptly, impartially and thoroughly all such allegations, and bring perpetrators to justice.

Violence against LGBTI individuals

42. The Committee is concerned at reports that lesbian, gay, bisexual, transgender and intersex people are subjected to violence on the basis of their sexual orientation or gender identity, such as physical attacks and other ill-treatment, both by law enforcement officials and private individuals. The Committee is also concerned at reports that law enforcement authorities fail to act with due diligence in investigating and punishing these cases and in applying legal provisions for crimes motivated by hate (arts. 2, 12, 13 and 16).

43. The State party should intensify its efforts to ensure prompt, thorough and impartial investigations into allegations of attacks against persons on the basis of their sexual orientation or gender identity; provide training to law-enforcement officials and the judiciary on detecting and combating hate-motivated crimes, including those motivated by sexual orientation or gender identity; and develop specific monitoring mechanisms documenting the administrative and judicial measures taken to investigate and prosecute such crimes and on the sentences imposed on perpetrators.

Senegal – Concluding Observations – 63rd Session, 15 May 2018, 4th review

Mauvais traitements motivés par la discrimination

35. Tout en notant l'affirmation de la délégation que l'homosexualité n'est pas explicitement poursuivie au Sénégal, le Comité relève avec préoccupation des informations concordantes dénonçant plusieurs arrestations violentes basées sur l'orientation sexuelle supposée de la personne, accompagnées de poursuites pour des actes « contre nature ». Le Comité relève aussi avec préoccupation des informations dénonçant l'insuffisante réponse de l'Etat pour adopter les moyens de protection au profit des personnes albinos (art. 2, 12, 13 et 16).

36. L'État partie devrait:

a) abroger l'article 319(3) du Code pénal, invoqué pour poursuivre des comportements homosexuels consentant;

- b) prendre des mesures efficaces pour prévenir les arrestations et la violence policière en raison de l'orientation sexuelle, réelle ou supposée, de la victime et pour protéger les albinos d'attaques rituelles et d'autres pratiques traditionnelles préjudiciables;
- c) faire en sorte que tous les actes de violence fassent l'objet d'une enquête, que les auteurs soient traduits en justice et que les victimes obtiennent réparation.¹

Tajikistan – Concluding Observations – 63rd Session, 14 May 2018, 3rd review

Situation of LGBTI persons

49. The Committee is concerned that lesbian, gay, bisexual, transgender and intersex people continue to be subjected to torture, ill-treatment, sexual abuse, arbitrary detention, blackmail and extortion by police or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity and that they are subjected to reprisals when they lodge complaints (arts. 12, 13, 14 and 16).

50. The State party should fulfil its national and international legislative obligations concerning equality before the law as they apply to the protection of the lesbian, gay, bisexual, transgender and intersex persons and develop legislation in this regard. It should publicly condemn acts of torture and other types of abuse against them, in particular by public officials or other persons acting in an official capacity. The State party should act promptly on complaints regarding cases of torture and abuse against lesbian, gay, bisexual, transgender and intersex persons, investigate and prosecute them, ensure that they do not give rise to reprisals and provide redress to the victims.

¹ English version of the Concluding Observations is not available yet. Below is an unofficial translation of the references into English:

III-treatment motivated by discrimination

35. While noting the delegation's assertion that homosexuality is not explicitly pursued in Senegal, the Committee notes with concern the information on several violent arrests based on the alleged sexual orientation of the persons, accompanied by for acts "against nature". The Committee also notes with concern information on the inadequate response of the State to adopt means of protection for the benefit of persons with albinism (articles 2, 12, 13 and 16).

36. The State party should:

- (a) repeal section 319 (3) of the Penal Code, invoked to prosecute consenting homosexual behavior;**
- (b) take effective measures to prevent arrests and police violence because of the actual or perceived sexual orientation of the victim, and to protect persons with albinism from ritual attacks and other harmful traditional practices;**
- (c) to ensure that all acts of violence are investigated, that the perpetrators are brought to justice and that the victims obtain reparation.**

3. COMPILATION OF LIST OF ISSUES

Andorra – List of Issues Prior to Reporting – 63rd Session, 23 April to 18 May 2018, 2nd review

Article 2

7. With reference to the Committee's previous concluding observations (para. 11), please provide information on any measures taken to prohibit and punish discrimination and incitement to violence against vulnerable groups, including with regard to sexual orientation and in school settings, and ensure that all hate crimes are always investigated, prosecuted and perpetrators convicted and punished. Also please provide information on steps taken to prevent and condemn hate speech during the period under review.

Azerbaijan – List of Issues Prior to Reporting – 63rd Session, 23 April to 18 May 2018, 5th review

Article 16

30. Please comment on reports of police brutality against individuals on the basis of their actual or perceived sexual orientation and gender identity, including the detention in September 2017 of around 150 people, and the alleged physical ill-treatment to which they were subjected. Provide information on the investigative steps taken into these allegations and their outcome.

Denmark – List of Issues Prior to Reporting – 63rd Session, 23 April to 18 May 2018, 8th review

Article 16

32. In light of the previous concluding observations (paras. 42-43), please indicate the measures taken by the State party to guarantee the respect for the physical integrity and autonomy of intersex persons and to ensure that no one is subjected during infancy or childhood to non-urgent medical or surgical procedures intended to decide the sex of the child. Please indicate the number of intersex children who have undergone sex assignment surgery during the reporting period.

4. CIVIL SOCIETY SUBMISSIONS

Azerbaijan

- Submission by [Institute for Peace and Democracy \(IPD\), International Partnership for Human Rights \(IPHR\), World Organisation against Torture \(OMCT\)](#) for the 63rd Session (part of the submission dedicated to the torture and arbitrary detention of LGBTI individuals)

Belarus

- Submission by [The Initiative Group "Identity and Law" \(Belarus\), Eurasian Coalition on Male Health](#) for the 63rd Session (submission dedicated to LGBTI issues)

Czech Republic

- Submission by [Forum for Human Rights: Submission to CAT on forced medical treatment and sterilisation of transgender persons](#) for the 63rd Session (submission dedicated to LGBTI issues)

Denmark

- Submission by [Danish NGO Coalition](#) for the 63rd Session (part of the submission dedicated to LGBTI individuals)
- Submission by [StopGM.org / Zwischengeschlecht.org](#) for the 63rd Session (submission dedicated to intersex individuals)

Tajikistan

- Submission by ["We just want to be who we are!" LGBT People in Tajikistan: beaten, raped and exploited by police](#) for the 63rd Session (submission dedicated to LGBTI issues)
- Submission by [Joint NGO submission by IPHR, OMCT, Notorturetj.org and the Helsinki Foundation for Human Rights](#) for the 63rd Session (part of the submission dedicated to LGBTI issues)

Thailand

- Submission by [Togetherness for Equality and Action](#) for the 63rd Session (part of the submission dedicated to LGBTI individuals, transgender and intersex people more specifically)