



UN Committee on the Elimination of Discrimination against Women (CEDAW):

**72nd Session, 18 Feb - 8 Mar 2019, and
74th Pre-Sessional Working Group, 11-15 Mar 2019**

State reports reviewed: [Angola](#), [Antigua and Barbuda](#), [Botswana](#), [Colombia](#), Ethiopia, Myanmar¹, [Serbia](#), [United Kingdom of Great Britain and Northern Ireland](#)

Lists of Issues adopted: Andorra, Bosnia and Herzegovina, Cambodia, [Ecuador](#), [Iraq](#), [Kazakhstan](#), [Lithuania](#), [Seychelles](#), Sweden, [Uruguay](#)

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RESUME:

- SOGIESC recommendations to [Angola](#), [Antigua and Barbuda](#), [Botswana](#), [Colombia](#), [Serbia](#) and [United Kingdom of Great Britain and Northern Ireland](#), including:
 - Revise legislation to protect LGBTI (Antigua and Barbuda, Colombia, Serbia, UK)
 - Decriminalise same-sex relations (Antigua and Barbuda)
 - Enhance LBT women's awareness of rights and access to justice (Antigua and Barbuda, Colombia)
 - LGBTI access to health services (Antigua and Barbuda, Botswana) and assisted reproduction (Serbia)
 - Combat violence (Colombia), sexual harassment (Serbia) and discrimination (Angola)
 - Ensure political representation of LBT women and teach children about LBT rights (Colombia)
 - First SOGIESC recommendations to Angola, Antigua and Barbuda, Botswana and United Kingdom.
- LBT questions to [Ecuador](#), [Iraq](#), [Kazakhstan](#), [Lithuania](#), [Seychelles](#) and [Uruguay](#), concerning:
 - Stereotypes and discrimination against LBT women (Ecuador, Kazakhstan, Uruguay)
 - Gender-based violence and "honour" crimes against LB/T women (Ecuador, Iraq, Uruguay)
 - "De-homosexualisation" practices (Ecuador)
 - Criminalisation of lesbianism (Kazakhstan) and same-sex sexual acts (Seychelles)
 - Inclusion of same-sex couples in the definition of family (Lithuania)
 - One trans-specific recommendation on violence against trans women (Uruguay)
- Individual communication [K.K. v. Russian Federation](#) (discrimination based on SO) – inadmissible.

- Next Session: **1-19 July 2019**
 - *Countries (main review)*: Austria, Cabo Verde, Côte d'Ivoire, Democratic Republic of the Congo, Guyana, Mozambique, Qatar
 - *NGO report deadline*: 10 June 2019 (to cedaw@ohchr.org)
- Next PSWG: **22-26 July 2019**
 - *Countries (for LOI)*: Afghanistan, Eritrea, Kiribati, Latvia, Pakistan, Republic of Moldova, Zimbabwe
 - *Countries (for LOIPR)*: Spain, Tunisia
 - *NGO report deadline*: 10 June 2019 (to cedaw@ohchr.org)

¹ Exceptional reporting procedure.

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1. SUMMARY

The UN Committee on the Elimination of Discrimination against Women (CEDAW) published its Concluding Observations and Lists of Issues as a result of the **72nd Session** (18 Feb - 8 Mar 2019) and **74th Pre-Sessional Working Group** (11-15 Mar 2019). SOGIESC²-inclusive **recommendations** were issued to six of eight States reviewed, and LGBTI **questions** were adopted in six of ten Lists of Issues.

The 9 questions and 14 recommendations called for addressing discrimination against LGBTI persons in law and practice, including by facilitating access to justice and social services; combatting gender-based violence against LBT women; decriminalising same-sex relations; prohibiting conversion therapy; increasing political representation; and guaranteeing the rights of same-sex couples to marriage and family planning services.

There were no follow-up SOGIESC recommendations. Furthermore, only three of the eleven States received intersex-inclusive questions or recommendations, and there were no stand-alone intersex references. One question on trans women was issued to **Uruguay**.

SOGIESC-inclusive **civil society reports** featured prominently for many States reviewed, and there were only three countries (Andorra, Lithuania, Seychelles) without LGBTI-related reports. With nearly all LOIs/LOIPRs and constructive dialogues also addressing SOGIESC, the absence of LGBTI questions and recommendations for some countries was at times surprising.

Finally, CEDAW considered an **individual communication** on SOGIESC. The case **K.K. v. Russian Federation** concerned a lesbian woman who was threatened and insulted by a politician on account of her sexual orientation, gender identity and LGBTI activism. However, the Committee deemed the complaint inadmissible as it did not find the courts to have acted in a manner that was discriminatory or amounted to a denial of justice.

1.1 Concluding Observations

At its **72nd Session**, CEDAW reviewed eight States: Angola, Antigua and Barbuda, Botswana, Colombia, Ethiopia, Myanmar (exceptional reporting procedure), Serbia and United Kingdom. SOGIESC recommendations were issued to all States except Ethiopia and Myanmar.

The 14 recommendations addressed SOGI-based discrimination, LBT women's access to public services, and protection against violence and discrimination. More specific recommendations called upon States to decriminalise same-sex relations, provide for same-sex marriage and family planning, and educating LBT women about their rights. There were no trans- or intersex-specific recommendations, although CEDAW commended Serbia for recognising gender identity as a ground of persecution for asylum seekers. The recommendations to Antigua and Barbuda and Colombia referred to LBT women only, and the others to LBT women and intersex persons. There were no follow-up recommendations.

With the exception of Myanmar, all Lists of Issues and constructive dialogues contained SOGIESC questions. Most States had fewer recommendations than questions, and the COs tended to be narrower in scope and less targeted towards specific populations. The notable exception was Colombia, which had 1 SOGIESC question but 6 SOGIESC recommendations.

Civil society reports frequently raised SOGIESC issues, with all the submissions for Angola, Antigua and Barbuda and Botswana addressing LB/T/I. Five State parties also had stand-alone reports on SOGIESC issues, and defenders from four States met with CEDAW in Geneva and discussed LGBTI rights.

² SOGIESC: Sexual orientation, gender identity and expression, and sex characteristics

Ethiopia was the only State not to be issued SOGIESC recommendations despite relevant questions from CEDAW and reports from civil society. The [List of Issues](#) had asked the State whether it planned to end the criminalisation of LB women in the Criminal Code, and about measures to raise awareness of, prohibit and eradicate “corrective” rape of LB women. The Committee also asked the State to protect sexual minority women and other vulnerable groups in the [constructive dialogue](#), and a [civil society submission](#) mentioned the criminalisation and marginalisation of LBI women.

Myanmar did not submit a regular periodic report due to an “exceptional” reporting procedure, where CEDAW requested the State to report specifically on Rohingya women and girls from Northern Rakhine State. The Committee did not make any SOGIESC references in this regard.

Country	SOGIESC in previous CO*	SOGIESC in LOI/LOIPR**	SOGIESC in the constructive dialogues***	SOGIESC in CSS****	SOGIESC in current CO*
Angola	No	Yes	Yes	Yes	Yes
Antigua and Barbuda	No	Yes	Yes	Yes	Yes
Botswana	No	Yes	Yes	Yes	Yes
Colombia	Yes	Yes	Yes	Yes	Yes
Ethiopia	No	Yes	Yes	Yes	No
Myanmar	No	No	No	Yes	No
Serbia	Yes	Yes	Yes	Yes	Yes
United Kingdom	No	Yes	Yes	Yes	Yes

*Concluding Observations

**List of Issues/List of Issues Prior to Reporting

***According to the Press Releases and Summary Records

****Civil Society Submissions

Text in bold links to the source material.

Country-specific information

Angola:

Angola received its first SOGIESC recommendation from CEDAW. The Committee welcomed the criminalisation of discrimination based on sexual orientation, but expressed concern about de facto discrimination against LGBTI persons. It recommended the State to change negative attitudes towards LGBTI persons and to enforce strict penalties on violations against them.

The [List of Issues](#) had asked whether LGBTI rights were included in the national education plan, while the [constructive dialogue](#) commended the new Criminal Code prohibiting discrimination based on SO and other grounds. Angola also received [two stand-alone reports](#) on LB(TI) women covering a range of topics that were not addressed by CEDAW, such as criminalisation and discrimination in health and employment. These were also the only civil society reports for Angola, and it is disappointing that CEDAW did not further address LGBTI issues.

Antigua and Barbuda:

Antigua and Barbuda was also issued its first LBT recommendations. The Committee first advised the State to increase awareness among LBT and other women of their rights under the CEDAW Convention, including available remedies. The second, stand-alone LBT recommendation called for comprehensive anti-discrimination legislation, decriminalisation of same-sex relations, and equal access to social services, health care and employment.

The [List of Issues](#) had asked about discrimination against LGBTI persons and HIV prevention programmes for trans women. The [constructive dialogue](#) asked whether the State would decriminalise same-sex relationships, enact temporary special measures to ensure equal opportunities for LGBTI women, and increase outreach to LGBTI communities. Finally, Antigua and Barbuda's only [civil society submission](#) mentioned marginalisation of LBT women. The organisation Women Against Rape also [met CEDAW](#) in Geneva, and talked about SOGI-based discrimination in access to health care.

Botswana:

Botswana also received its first SOGIESC-inclusive recommendation from CEDAW to ensure access to public services and free antiretroviral treatment for LGBTI persons, among others.

The Committee had asked the same question in the [constructive dialogues](#), whereas the [List of Issues](#) asked how LGBTI women's opportunities benefitted from the revised Employment Act.

All three [civil society submissions](#), including a stand-alone report by Black Queer DocX, had discussed the criminalisation of same-sex acts, legal gender recognition, intersex rights and more. Black Queer DocX and BONELA also [met with CEDAW](#) in Geneva and raised SOGIESC issues, including the exclusion of trans people.

Colombia:

Colombia received a total of six SOGIESC-inclusive recommendations. By comparison, the other State parties received from 0-3 SOGIESC recommendations each. However, in two cases LBT women were only mentioned in the preamble, and not in the recommendation itself.

First, there were three SOGI recommendations on prohibiting discrimination against LBT women, ensuring their representation in the Presidential Council for Women's Equality, and preventing gender-based violence with a particular focus on LBT women. Second, in the two recommendations only mentioning LBT women in the preamble, CEDAW expressed concern about their lack of access to justice and protection from violence, and recommended actions to strengthen the judicial system and the implementation of the Peace Agreement for vulnerable groups of women. Finally, CEDAW issued a stand-alone SOGI recommendation to effectively protect LBT women from violence and hate crimes, ensure their access to justice and same-sex marriage, raise awareness in schools about SOGI-based discrimination, and include LBT women's rights in national school education.

The [List of Issues](#) only had one LGBTI-inclusive question, concerning measures to prohibit intersectional discrimination against particular groups of women. However, the [constructive dialogue](#) asked Colombia several questions about LBT women's rights, including access to justice, adoption for same-sex couples, educating officials on SOGI and combatting violence.

Colombian [civil society](#) had submitted numerous LBT-inclusive reports for the Session, mainly on violence, "gender ideology" discourse and murders of trans women. Caribe Afirmativo, which submitted a stand-alone report on LBT women, also [met with CEDAW in Geneva](#) and spoke about the setback for LBT women's rights in Colombia, and the authorities' inaction in regard to violence against them. The UN [Special Rapporteur on human rights defenders](#) also spoke about intersectional violence against women, including on grounds of sexual orientation.

Serbia:

Serbia received three SOGIESC recommendations from CEDAW, concerning discrimination, employment and health. CEDAW first asked the State to ensure the draft anti-discrimination law would prohibit SOGI-based discrimination. The second recommendation, on employment,

only mentioned SOGIESC in its preamble, expressing concern about sexual harassment against LGBTI and young women specifically. CEDAW then urged Serbia to prevent and sanction sexual harassment towards women in general. Thirdly, it recommended giving LGBTI persons access to family planning services and artificial insemination. Finally, CEDAW welcomed the 2018 Law on Asylum and Temporary Protection, which prohibits persecution on grounds of sex, gender and gender identity.

Serbia's [List of Issues](#) addressed some of the same issues, asking the State to include LGBTI women in the new laws on discrimination and gender equality. CEDAW further asked about discrimination against LGBTI persons in employment, access to family-planning services and same-sex partnerships. The [constructive dialogues](#) asked about reports that a tool to address sexual violence in schools had been withdrawn due to complaints it promoted homosexuality.

Finally, Serbia received numerous [civil society reports](#) describing the situation of LGBT(I) persons in the country, including a stand-alone report by Labris on discrimination of lesbians.

United Kingdom of Great Britain and Northern Ireland:

Finally, the **United Kingdom** received its first SOGIESC-inclusive recommendation, asking the State to review the public sector equality duty in the Equality Act in order to address intersectional discrimination, including against LGBTI women.

The recommendation was narrower in scope than the [List of Issues](#), which had three SOGIESC questions, on surgeries on intersex children, violence and abuse against LBT women and girls and gender-based harassment and bullying, particularly against trans women and girls. The [constructive dialogue](#) had questioned the State on measures to increase the participation of SOGI minority women in the public sphere, combatting homophobic hate speech, and prohibiting irreversible surgeries on intersex children and ensuring their access to justice.

Northern Ireland Women's European platform [met the Committee](#) in person and expressed concern for the marginalisation of LGBTI women, and there was a considerable amount of [civil society submissions](#) referring to SOGIESC, including stand-alone reports on trans and intersex rights. Even though the percentage of SOGIESC submissions was lower than for the other States, the lack of follow-up on their input and on the LOI was disappointing, particularly with regards to the trans- and intersex-specific questions.

1.2. Lists of Issues (LOIs) and Lists of Issues Prior to Reporting (LOIPRs)

During its **74th Pre-Sessional Working Group**, CEDAW [adopted questions](#) for ten States that are to be reviewed in the future: LOIs for Andorra, Bosnia and Herzegovina, Cambodia, Iraq, Kazakhstan, Lithuania and the Seychelles; and LOIPRs for the simplified reporting procedures of Ecuador, Sweden and Uruguay.

LBT-specific questions were sent to five State parties (Ecuador, Iraq, Kazakhstan, Lithuania and Uruguay). They concerned discrimination against LBT women and same-sex families, violence against trans women and sexual minorities, "honour" crimes, "de-homosexualisation" practices and criminalisation of lesbianism. Of the eight questions, six addressed LBT women, one addressed trans women, and one same-sex families. Additionally, Seychelles were asked about criminalisation of same-sex sexual acts. There were no intersex references.

Four of the six States ([Ecuador](#), [Iraq](#), [Kazakhstan](#) and [Uruguay](#)) had SOGIESC-inclusive civil society submissions, including stand-alone reports to Iraq, Kazakhstan and Uruguay.

However, three other States ([Bosnia and Herzegovina](#), [Cambodia](#) and [Sweden](#)) also had civil society reports with dedicated LGBTI sections, including a stand-alone report to Sweden. It is

unclear why the Committee did not choose to follow up on these reports in the LOIs/LOIPRs, and it remains to be seen whether it will do so in the Concluding Observations.

Ecuador was asked about ending discrimination against, among others, LBT women, and mechanisms to monitor progress in this regard. A second question requested information on gender-based violence disaggregated by, inter alia, sexual orientation. It also asked about measures to prohibit and sanction so-called “de-homosexualisation” practices on LBT women.

Iraq was asked about combatting impunity for “honour” crimes, including those committed against LBT women and intersex persons for challenging traditional gender roles.

Kazakhstan was asked to ensure legislation on gender and family prohibits SOGI-based and other discrimination. A second question asked for a clarification of the reference to “lesbianism” in arts. 121 and 123 of the Criminal Code.

Lithuania was asked about steps taken to ensure that non-traditional families, including same-sex couples, are fully included in the notion of family in all laws, policies and strategies of the State, and about the impact of the Strengthening Families Act on such families.

Seychelles received a question on decriminalisation of same-sex sexual acts.

Uruguay received two LBT questions, concerning measures to combat stereotypes in the public and media against, among others, LBT women, and measures to address gender-based violence against trans women and others facing intersectional discrimination.

The seven States that were issued LOIs will be reviewed at CEDAW’s **74th Session**, on 21 October to 8 November 2019. The Session dates for Ecuador, Sweden and Uruguay have yet to be determined.

1.3. Individual Complaints

The Committee considered three individual complaints in relation to its **72nd Session**. Among them was the second³ SOGIESC case assessed by CEDAW, **K.K. v. Russian Federation**. The complaint concerned a lesbian activist who was threatened and insulted by a deputy of the St. Petersburg Legislative Assembly at the 2013 QueerFest festival. Following numerous rejections and appeals in court, the author brought the case before CEDAW, claiming a violation of her rights based on her sexual orientation, gender identity and LGBTI activism. She argued she had been discriminated against by a representative of the State, which she said had an obligation to refrain from and investigate such discrimination, and that Russia had failed to provide her with effective legal remedies and recognition of her rights. She referred to numerous statements and judgements by UN and EU human rights bodies in this regard.

Among the arguments submitted by the Russian State was the claim the deputy was not aware of the negative meanings of the words he used, that he had whispered the words, that his attitude “could have been the result of a conflict situation or could have been triggered by other factors”, and that in any case they were “the subjective opinion of the defendant towards the happenings, which he was free to express under the Constitution”. The courts did not find the words used insulting or degrading because they were not considered abusive words and “did not personally characterize the author”.

However, CEDAW did not address the substantive matter of the case. While agreeing the author had exhausted domestic remedies, the Committee did not find that the Russian State had handled the case in a manner that discriminated against women or amounted to a denial

³ The first was [A.S. v. Denmark](#) (2018), which was also deemed inadmissible.

of justice, as both sides had been able to put forward their opinions and the courts had based their decisions upon this material. CEDAW therefore declared the case inadmissible.

2. COMPILATION OF CONCLUDING OBSERVATIONS

Angola – Concluding Observations – 72nd Session, 14 March 2019, 7th review⁴

Women facing multiple and intersecting forms of discrimination

43. The Committee welcomes the criminalization of acts of discrimination based on sexual orientation, including in employment, through the adoption of the new Penal Code. [...] It is concerned, however, that:

(a) Rural women and girls and women and girls with disabilities, with albinism, living with HIV/AIDS and in prostitution, lesbian, bisexual and transgender women and intersex persons face multiple and intersecting forms of discrimination, restricting in particular their access to health services, employment, education, housing and justice and their participation in public and political life; [...]

44. The Committee recommends that the State party, in line with general recommendation No. 18 (1991) on disabled women:

(a) Undertake awareness-raising activities to change negative attitudes towards women and girls with disabilities, with albinism, living with HIV/AIDS and in prostitution, lesbian, bisexual and transgender women and intersex persons, ensuring that strict penalties are imposed on the perpetrators of violations against them;
[...]

Antigua and Barbuda – Concluding Observations – 72nd Session, 14 March 2019, 4th to 7th review⁵

Visibility of the Convention, the Optional Protocol thereto and the Committee's general recommendations

11. The Committee welcomes the various educational and awareness-raising programmes on women's rights. It is concerned, however, about the general lack of awareness of the Convention and the Optional Protocol thereto in the State party, in particular among women and government and law enforcement officials.

12. The Committee recommends that the State party:

[...]

(b) Intensify efforts to enhance awareness among women, including migrant women, older women, women with disabilities and lesbian, bisexual and transgender women, of their rights under the Convention and the remedies available to them to claim violations of those rights and ensure that information on the Convention, the Optional Protocol thereto and the Committee's general recommendations is provided to all women.

Lesbian, bisexual and transgender women

46. The Committee is concerned about the criminalization of same-sex relations between consenting adults, the absence of legislation prohibiting discrimination on all grounds prohibited under the Convention and the reports of discrimination and stigma against lesbian, bisexual and transgender women.

47. The Committee recommends that the State party enact comprehensive anti discrimination legislation that prohibits all forms of discrimination and ensure equal rights and opportunities for lesbian, bisexual and transgender women, including through the decriminalization of same-sex relations between consenting adults. The Committee also recommends that the State party ensure access for lesbian, bisexual and transgender women to, inter alia, employment, health care and social services without discrimination or stigma.

⁴ CEDAW/C/AGO/CO/7

⁵ CEDAW/C/ATG/CO/4-7

Disadvantaged groups of women

43. [...] The Committee is also concerned about the lack of equal access to free antiretroviral treatment for members of disadvantaged groups, including indigenous women, women prisoners, women with disabilities, lesbian, bisexual and transgender women, intersex persons and migrant women. [...]

44. The Committee recommends that the State party:

[...]

(b) Review and remove obstacles faced by indigenous women, women prisoners, women with disabilities, lesbian, bisexual and transgender women, intersex persons and migrant women in gaining access to public services and obtaining free antiretroviral treatment;

[...]

General context and priority concerns

9. The Committee acknowledges the achievements made by the State party in the fields of peace, security and justice, through the signing in 2016 of the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace. [...] The Committee is further concerned about indications that threats and violence, including sexual violence, against women human rights defenders have increased considerably in the period following the signing of the agreement and that the most vulnerable groups of women, in particular Colombian women of African descent, indigenous, rural, lesbian, bisexual and transgender women and women with disabilities, continue to suffer serious violations of their rights without access to the protection of the State or to justice.

10. The Committee recommends that the State party, as a matter of priority, expedite the implementation of the gender provisions of the peace agreement and harmonize them with the national development plan, to ensure the protection of, and access to justice for, the most vulnerable groups of women in the State party.

Legislative and policy framework

11. [...] The Committee is also concerned about the absence of efficient legislative and policy measures targeting the intersectional discrimination faced by women belonging to vulnerable groups.

12. Recalling its general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, the Committee recommends that the State party:

[...]

(b) Apply in its legislation the comprehensive definition of discrimination against women and girls contained in article 1 of the Convention, prohibit all discrimination against women, in accordance with article 2 (b) and ensure that legislation covers all prohibited grounds of discrimination, including protection from discrimination for indigenous women, Colombian women of African descent, rural women, women with disabilities and lesbian, bisexual and transgender women, in the public and private spheres, and that it covers intersecting forms of discrimination.

Access to justice

13. The Committee welcomes measures taken to improve and increase access for women to justice [...] The Committee remains concerned, however, about the limited institutional capacity of the judiciary, in particular in rural areas, and the high level of impunity, in particular in cases related to femicide, sexual violence and violence against women human rights defenders, which disproportionately affect

⁶ CEDAW/C/BWA/CO/4

⁷ CEDAW/C/COL/CO/9

women from vulnerable groups, such as indigenous women, Colombian women of African descent, rural women, women with disabilities and lesbian, bisexual and transgender women.

14. Recalling its general recommendation No. 33 (2015) on women's access to justice, the Committee recommends that the State party:

(a) Strengthen the judicial system, including through additional financial, technical and specialized human resources, with a view to handling cases in a timely, gender-sensitive, non-discriminatory and competent manner in all of its territory, in particular in rural areas;

[...]

(f) Ensure access to legal aid services for women and girls and undertake awareness-raising campaigns to inform women and girls about their rights under the Convention.

National machinery for the advancement of women

19. [...] The Committee also notes with concern that indigenous women, Colombian women of African descent, lesbian, bisexual and transgender women and women with disabilities are not represented in the Office of the Presidential Council for Women's Equity.

20. Reiterating its previous recommendation (CEDAW/C/COL/CO/7-8, para. 12), the Committee recommends that the State party:

[...]

(d) Ensure that indigenous women, Colombian women of African descent, lesbian, bisexual and transgender women and women with disabilities are represented in the Presidential Council for Women's Equity.

Gender-based violence against women

25. [...] The Committee is concerned, however, about the increasing and persistently high number of cases of gender-based violence against women and girls, including femicide and violence in institutions, and about the level of impunity for such acts. [...]

26. Recalling its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, the Committee recommends that the State party:

(a) Strengthen its efforts, as a matter of priority and within a specific time frame, to implement the national plan for the prevention of gender-based violence against women and girls, including violence in institutions, in particular targeting indigenous women, Colombian women of African descent, rural women, women with disabilities and lesbian, bisexual and transgender women;

[...]

Lesbian, bisexual and transgender women

43. The Committee is concerned about reports of widespread discrimination, threats and attacks directed against lesbian, bisexual and transgender women. The Committee is further concerned that, despite the fact that the Constitutional Court has ordered the legal recognition of same-sex marriages, lesbian, bisexual and transgender women continue to face unjustified delays, discriminatory interpretations and unforeseen requirements when exercising their rights. The Committee welcomes judgment T-478/2015 of the Constitutional Court, which ordered the Ministry of Education to implement preventive and responsive measures against discrimination on the basis of sexual and gender identity and incorporate that information into school manuals. It is concerned, however, that those measures have not yet been fully implemented. The Committee is also concerned that the national school coexistence system, implemented in 2013, has not produced the expected results regarding the protection of lesbian, bisexual and transgender students.

44. The Committee recommends that the State party:

(a) Effectively protect lesbian, bisexual and transgender women from violence and discrimination and ensure their access to justice, through the appropriate handling of their

complaints, punishment of perpetrators and awarding of compensation to victims, and adopt measures to prevent hate crimes;

(b) Ensure compliance with the judgment of the Constitutional Court that orders the legal recognition of same-sex marriages and train civil servants who handle such requests;

(c) Take immediate steps to ensure compliance with judgment T-478/2015 of the Constitutional Court, including by raising public awareness in partnership with civil society organizations;

(d) Include in the national school coexistence system a more efficient programme on teaching children about the rights of lesbian, bisexual and transgender women.

Serbia – Concluding Observations – 72nd Session, 14 March 2019, 4th review⁸

B. Positive aspects

4. The Committee welcomes the progress achieved since the consideration in 2013 of the State party's combined second and third periodic reports (CEDAW/C/SRB/2 3) in undertaking legislative reforms, in particular the adoption of the following:

[...]

(b) Law on Asylum and Temporary Protection, prohibiting persecution on the grounds of sex, gender or gender identity and prohibiting gender-based violence, in 2018;

[...]

E. Principal areas of concern and recommendations

Legislative framework and definition of discrimination

11. The Committee notes the information provided by the State party that the new draft law on the prohibition of discrimination, which defines and prohibits direct and indirect discrimination, sexual harassment and incitement to discrimination, is pending adoption before the National Assembly. It also notes that it is envisaged that the new draft law on gender equality will outlaw direct and indirect discrimination. The Committee is nevertheless concerned that the adoption of those laws has been hampered by a lack of political consensus.

12. The Committee encourages the State party:

(a) To adopt the new draft law on the prohibition of discrimination without further delay;

(b) To review, with a view to its timely adoption, the new draft law on gender equality in line with the Convention through an inclusive, participatory process in cooperation with civil society organizations focusing on women's rights, while ensuring that the law addresses direct, indirect and intersecting forms of discrimination, including on the grounds of sexual orientation and gender identity;

(c) To ensure sufficient budget allocations for, as well as regular monitoring and impact assessment of, anti-discrimination laws, to ensure that all women, including the most vulnerable groups, fully benefit from their provisions;

(d) To raise awareness of those laws, especially among women belonging to disadvantaged groups.

Employment

35. [...] However, the Committee remains concerned about the following:

[...]

(e) The lack of measures to address sexual harassment in the workplace, specifically with regard to young women and lesbian, bisexual and transgender women and intersex persons, including the disproportionately low number of convictions for sexual harassment, which adversely affects women's possibilities for employment and promotion.

36. The Committee recalls its previous recommendations (CEDAW/C/SRB/ CO/2-3, para. 31) and urges the State party:

[...]

(f) To undertake a comprehensive survey to assess the prevalence of sexual harassment at the workplace; encourage reporting of sexual harassment at the workplace and raise public awareness of its discriminatory nature, its negative impact on women's employment and potential sanctions; strengthen the mechanism to address cases of sexual harassment effectively, including in court; and collect statistics, disaggregated by age, origin, geographical area and relationship with the perpetrator, on the number and nature of complaints of sexual harassment at the workplace in the public and private sectors.

Health

37. The Committee commends the adoption of the national programme for the preservation and improvement of sexual and reproductive health, in 2017. However, it is concerned about the following:

[...]

(f) Reports that lesbian, bisexual and transgender women and intersex persons are excluded from family planning services, including artificial insemination.

38. The Committee recalls its previous recommendations (CEDAW/C/SRB/ CO/2-3, para. 33) and urges the State party:

[...]

(d) To enhance access to family planning services and artificial insemination for lesbian, bisexual and transgender women and intersex persons.

United Kingdom of Great Britain and Northern Ireland – Concluding Observations – 72nd Session, 14 March 2019, 8th review⁹

Legislative and policy framework

[...]

15. [...] The Committee remains concerned about the limitations of the public sector equality duty under the Equality Act to effectively protect women from discrimination, including intersecting forms of discrimination [...].

16. The Committee recommends that the State party:

[...]

(c) Review and amend the public sector equality duty in order to address situations of intersecting forms of discrimination, such as discrimination faced by “Black, Asian and Minority Ethnic” women, older women, women with disabilities, asylum-seeking and refugee women, lesbian, bisexual and transgender women and intersex persons;

[...]

States with no SOGIESC recommendations:

- Ethiopia
- Myanmar

⁹ CEDAW/C/GBR/CO/8

3. COMPILATION OF LISTS OF ISSUES

Ecuador – List of Issues Prior to Reporting – 74th PSWG, 20 March 2019, 10th review¹⁰

Legislation on discrimination against women

3. [...] Please provide information on measures taken to end de facto and intersecting forms of discrimination faced by indigenous, Ecuadorian women of African descent, Montubio women, women with disabilities, lesbian, bisexual and transgender women, migrant women, women asylum seekers and refugee women. Please also inform the Committee about steps taken to establish mechanisms to collect information and assess the status and progress made with regard to the realization of the human rights of women belonging to disadvantaged and marginalized groups.

Gender-based violence against women and girls

7. With reference to the Committee's previous concluding observations (para. 21) and the follow-up report of the State party (CEDAW/C/ECU/CO/8-9/Add.1), please provide detailed information on steps taken to implement plans aimed at creating a unified register on gender-based violence against women and girls, with data disaggregated data by age, ethnicity, disability, sexual orientation, whether the victim was in detention, type of violence and relationship between the victim and the perpetrator, outlined in the national plan to eradicate gender-based violence against children, adolescents and women. [...]. Please provide detailed information on measures taken to prevent, prohibit and sanction clinical practices of so-called "de-homosexualization", which violate the rights of lesbian, bisexual and transgender women. [...].

Iraq – List of Issues – 74th PSWG, 18 March 2019, 7th review¹¹

Gender-based violence against women

[...]

11. Please provide information on measures taken by the State party to combat impunity for crimes committed in the name of so-called "honour", including rape, torture and murder, against women politicians, journalists, teachers, doctors, human rights defenders, women returnees in the aftermath of the conflict with ISIL, lesbian, bisexual and transgender women and intersex persons for challenging traditional gender stereotypes on the role of women in the family and in society and measures taken to comply with its due diligence obligation to prevent, investigate, prosecute and punish such crimes, and to ensure that sentences are commensurate with the gravity of the offences committed.

Kazakhstan – List of Issues – 74th PSWG, 18 March 2019, 5th review¹²

Constitutional and legislative framework

[...]

2. Please indicate the measures taken to ensure that the amendments to be introduced in certain legislative acts related to family and gender policy issues, including regarding the definition of direct and indirect discrimination, as well as the change envisaged in the definition of gender equality in the Act on State guarantees of equal rights and equal opportunities for men and women (the Gender Equality Act), contain a comprehensive legal definition of discrimination against women in line with article 1 of the Convention that encompasses direct and indirect discrimination both in the public and private spheres, as well as intersecting forms of discrimination, and prohibits and sanctions all forms of discrimination against women, including discrimination based on sexual orientation and gender identity, in conformity with the Convention.

¹⁰ CEDAW/C/ECU/QPR/10

¹¹ CEDAW/C/IRQ/Q/7

¹² CEDAW/C/KAZ/Q/5

Gender-based violence against women

[...]

10. [...] Please clarify the references to “lesbianism” in articles 121 to 123 of the Code.

Lithuania – List of Issues – 74th PSWG, 18 March 2019, 6th review¹³

Marriage and family relations

19. Please provide information on the steps taken by the State party to give effect to the Committee’s recommendation (CEDAW/C/LTU/CO/5, para. 41 (a)), in order to ensure that non-traditional families, including same-sex couples and de facto unions, are fully encompassed in the notion of family used in all State laws, policies, programmes and strategies, in line with the Committee’s general recommendation No. 21 (1994) on equality in marriage and family relations and No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution. Please elaborate on the constitutional provision concerning the comprehensive protection of maternity, paternity and childhood and the Strengthening Families Act (paras. 48–49), indicating whether an assessment has been conducted of their impact on the rights of women, their freedom of choice and different forms of families.

Seychelles – List of Issues – 74th PSWG, 18 March 2019, 6th review¹⁴

Definition of discrimination against women

1. [...]. Please provide information on the development of the strategy and on the repealing of provisions criminalizing same-sex relationships in the State party in the light of the State party’s commitments to do so under the universal periodic review process (A/HRC/32/13/Add.1, paras. 120.96 and 120.46–120.53).

Uruguay – List of Issues Prior to Reporting – 74th PSWG, 20 March 2019, 10th review¹⁵

Stereotypes and harmful practices

10. [...]. Please indicate the measures taken to address stereotyped portrayals of women, including Uruguayan women of African descent, lesbian, bisexual and transgender women and migrant women, in the media. Please also indicate whether the State party has adopted a comprehensive policy, targeted at women, men, boys and girls, to combat such traditional stereotypes, as previously recommended by the Committee (para. 18 (a)).

Gender-based violence against women

11. [...] Please also provide information on specific measures taken to address the high incidence of gender-based violence against women facing intersecting forms of discrimination, in particular Uruguayan women of African descent, women with disabilities and transgender and migrant women, and to prevent gender-based violence, including domestic violence.

States with no SOGIESC questions:

- Andorra
- Bosnia and Herzegovina

¹³ CEDAW/C/LTU/Q/6

¹⁴ CEDAW/C/SYC/Q/6

¹⁵ CEDAW/C/URY/QPR/10

- Cambodia
- Sweden

4. CIVIL SOCIETY SUBMISSIONS

Angola

- Submission by Angolan Feminist LGBTIQ Collective for the 72nd Session (*stand-alone report on the situation of LGBTIQ persons, including criminalisation, discrimination, HIV, sex work and abortion*).
- Submission by Arquivo de Identidade Angolano for the 72nd PSWG (*stand-alone report on discrimination of LB women in Angola, including in health, education and employment*).

Antigua and Barbuda

- Submission by Women Against Rape for the 72nd Session (*mentions lack protection for LGBTQ persons and marginalisation of LBT women*).

Bosnia and Herzegovina

- Submission by Helsinki Citizens' Assembly Banja Luka and Rights for All for the 74th PSWG (*stand-alone chapter and recommendations on LBTI women by Sarajevo Open Centre*).
- Submission by Sarajevo Open Centre and others for the 74th PSWG (*stand-alone section on LGBTI persons, including hate crimes/speech, freedom of assembly, same-sex unions and TI persons*).

Botswana

- Submission by Black Queer DocX (BQDX) and Lesbians, Gays and Bisexuals of Botswana (LEGABIBO) for the 72nd Session (*stand-alone report on LBT women, including criminalisation of same-sex relations, political participation, gender identity recognition, discrimination, education*).
- Submission by BOCONGO for the 72nd Session (*mentions sexual abuse of LBQ women, exclusion of SOGI from National Youth Policy, and lack of legal or policy framework for intersex children*).
- Submission by Sisonke and BONELA for the 72nd Session (*submission on sex workers and trans people, including section on criminalisation of same-sex acts and marginalisation of TI persons*).

Cambodia

- Submission by Cambodian NGO Committee on CEDAW for the 74th PSWG (*section on LBTI+, including marriage, legal gender recognition, employment discrimination and police harassment*).

Colombia

- Submission by Caribe Afirmativo for the 72nd Session (*stand-alone report on LBT women*).
- Submission by Coalición Colombiana por la Implementación de la CDPD for the 72nd Session (*mentions intersectional discrimination based on SO and other grounds*).
- Submission by Colombia Diversa, Fundación Grupo de Acción y Apoyo a Personas Trans (GAAT), and Diversas Incorrectas for the 72nd Session (*stand-alone report on LBT women, 2013-2018*).
- Submission by Grupo de Monitoreo para la Implementación de la CEDAW for the 72nd Session (*mentions harm of "gender ideology" discourse on LGBT persons, and lack of same-sex marriage*).
- Submission by Lawyers Without Borders Canada for the 72nd Session (*mentions importance of women's and LGBTI rights in implementing the Peace Agreement*).
- Submission by RIDH and GSHR for the 72nd Session (*stand-alone report on "gender ideology" discourse and its attack on LGBTI rights*).
- Submission by LIMPAL for the 72nd PSWG (*reference to murders of trans women*).
- Submission by National Network of Women (RNM) for the 72nd PSWG (*calls for LBT-specific measures to implement the Peace Agreement and to combat violence against women*).
- NHRI submission by Defensoría del Pueblo for the 72nd Session (*mentions disproportionate violence against LGBT persons, marginalisation and political inaction*).
- NHRI submission by Defensoría del Pueblo for the 72nd PSWG (*mentions violence as control mechanism of women and LGBT persons, and murders of trans women*).

Ecuador

- Submission by Defensoría del Pueblo for the 74th PSWG (*mentions violence against LGBTI persons, restricted access to rights, and femicides of trans women*).
- NHRI submission by Coalición Nacional de Mujeres del Ecuador for the 74th PSWG (*mentions lack of data disaggregated by, inter alia, SOGI, for violence, murder and hate crimes*).

Ethiopia

- Submission by Setaweeet Movement and DAWN for the 72nd Session (*mentions criminalisation of sexual minorities, rising homophobia, censorship, and marginalisation of LBI women*).

Iraq

- Submission by OWFI, ASUDA, HRGJ and MADRE for the 74th PSWG (*section on gender-based crimes by ISIL, mentions torture and murder of gays and lesbians, and the government's inaction*).
- Submission by IraQueer, MADRE and Outright Action International for the 74th PSWG (*stand-alone report on violence and discrimination against LGBT people in Iraq*).

Kazakhstan

- Submission by Equal Rights Trust, KIBHR, "Feminita", ADC "Memorial" and Union of Crisis Centres for the 74th PSWG (*questions lack of SOGI as prohibited grounds of discrimination*).
- Submission by Kazakhstan Feminist Initiative "Feminita" for the 74th PSWG (*stand-alone report on LBQT women, including criminalisation of "lesbianism", discrimination in law, employment, public services and marriage, "anti-propaganda" laws, gender recognition and civil society restrictions*).

Myanmar

- Submission by GJC for the 72nd Session (*mentions multiple discrimination of LGBT persons*).

Serbia

- Submission by Equal Rights for the 72nd Session (*report on sex workers, including government violence against Roma trans sex workers and their exclusion from the LGBT community*).
- Submission by Equal Rights Trust for the 72nd Session (*mentions high cost of civil litigation for a case of discrimination based on sexual orientation*).
- Submission by INHR/RIDH and GSHR for the 72nd Session (*report on the threat of anti-LGBT and "gender ideology" discourse to women's rights and gender equality*).
- Submission by Platform of Organizations for Cooperation with UN HR Mechanisms for the 72nd Session (*section on intersex people, recommends support, protocols, research and third sex option*).
- Submission by Roma Women's Network of Serbia for the 72nd Session (*mentions LBT women's vulnerability, account of a paperless lesbian, and lack of government funding for the NGO Labris*).
- Submission by SOS Vojvodina Network for the 72nd Session (*discusses how lack of same-sex marriage places LB women at risk of poverty*).
- Submission by Equal Rights Trust for the 72nd PSWG (*brief reference to case of discrimination against a bisexual woman*).
- Submission by Femplatz and A11 Initiative for Economic and Social Rights for the 72nd PSWG (*mentions government's pledge to ensure participation of LGBT organisations in policy-making*).
- Submission by Labris - Lesbian Human Rights Organisation for the 72nd PSWG (*stand-alone report on discrimination of lesbians*).
- Submission by Women's Centre Užice, Femina Creativa Subotica, Women's Initiative Priboj and Ternipe Piroć for the 72nd PSWG (*mentions multiple discrimination of women based on SO*).
- NHRI submission by the Protector of Citizens (Ombudsman) for the 72nd PSWG (*discusses the lack of same-sex marriage, legal gender recognition, education and awareness, hate crime legislation and free legal aid to LGBTI persons, and notes the vulnerability of LBTI women and youth*).

Sweden

- Submission by [Diakonia, SSNC and CIEL](#) for the 74th PSWG (*mentions the exacerbating effect climate change can have on discrimination, including for sexual minorities*).
- Submission by [RFSL](#) for the 74th PSWG (*stand-alone report on LBTQ women, NB and intersex persons on asylum, violence, access to justice, “normalising” surgeries and gender recognition*).

United Kingdom of Great Britain and Northern Ireland

- Submission by [Amnesty International](#) for the 72nd Session (*mentions SOGI-based online violence and legislative progress on same-sex marriage*).
- Submission by [Baobab Women’s Project and Refugee Rights Europe](#) for the 72nd Session (*mentions trauma due to persecution based on sexual orientation*).
- Submission by [Committee on the Administration of Justice](#) for the 72nd PSWG (*mentions lack of protection for gender and gender identity in Northern Ireland legislation*).
- Submission by [Engender \(Scotland\)](#) for the 72nd Session (*mentions intersecting discrimination of and lack of political representation of LGBT women, in particular trans women*).
- Submission by [Engender, NIWEP, WEN Wales and Women’s Resource Centre](#) for the 72nd Session (*mentions LGBT women as a vulnerable group*).
- Submission by [Inclusion Scotland](#) for the 72nd Session (*calls for inclusion of non-binary people*).
- Submission by [Intersex NGO Coalition UK](#) for the 72nd Session (*stand-alone intersex report with 10 personal accounts*).
- Submission by [Nordic Model Now!](#) for the 72nd Session (*criticises the Government Equalities Office’s supposedly greater priority of LGBT persons than women and girls*).
- Submission by [Plan International UK](#) for the 72nd Session (*recommends teaching about LGBT families, homo- and transphobia in the RSE*).
- Submission by [Rape Crisis England and Wales](#) for the 72nd Session (*recommends government funding to the National LGBT Domestic Abuse Helpline*).
- Submission by [SWARM](#) for the 72nd Session (*mentions LGBT and trans women sex workers*).
- Submission by [Sisters for Change](#) for the 72nd Session (*mentions SO in context of intersectional discrimination and violence*).
- Submission by [Sisters of Frida and Women Enabled International](#) for the 72nd Session (*data on violence against LGBT persons with disabilities*).
- Submission by [Transgender Northern Ireland](#) for the 72nd Session (*stand-alone report on transgender women and girls*).
- Submission by [Women’s Equality Network Wales](#) for the 72nd Session (*mentions transphobia in politics, schools and health care, and the new gender identity clinic in Cardiff*).
- Submission by [WILPF-UK](#) for the 72nd Session (*mentions gender-based violence based on SOGI*).
- Submission by [Amnesty International](#) for the 72nd PSWG (*mentions online violence based on SOGI and lack of same-sex marriage in Northern Ireland*).
- Submission by the [Asylum Aid and Women for Refugee Women](#) for the 72nd PSWG (*mentions vulnerability of LGBTI asylum seekers, and questioning of their sexual orientation*).
- Submission by [Committee on the Administration of Justice \(CAJ\)](#) for the 72nd PSWG (*mentions lack of protection of gender and gender identity in the Public Order (Northern Ireland) Order*).
- Submission by the [Engender, NIWEP, WEN Wales and Women’s Resource Centre](#) for the 72nd PSWG (*mentions discrimination and violence against LGBT women*).
- Submission by the [INQUEST](#) for the 72nd PSWG (*mentions deaths and suicide of trans women in male prisons*).
- Submission by the [Nordic Model Now!](#) and other NGOs for the 72nd PSWG (*transphobic references to trans people and the “transgender trend”*).
- Submission by [StopIGM.org, IntersexUK \(iUK\) and the UK Intersex Association \(UKIA\)](#) for the 72nd PSWG (*stand-alone report on intersex genital mutilation in the UK*).
- Submission by [Women’s Equality Network Wales](#) for the 72nd PSWG (*references to discrimination of LGBT and trans people, including in education, health care and employment*).
- Submission by [Women’s Resource Centre](#) for the 72nd PSWG (*reference to lesbian asylum seeker*).

- NHRI submission by the Equality and Human Rights Commission for the 72nd Session (*mentions barriers to legal gender recognition and lack of LGBT data*).
- NHRI submission by the Northern Ireland Human Rights Commission for the 72nd Session (*criticises criteria for legal gender recognition, transphobia in the media, LGBT bullying, and more*).
- NHRI submission by the Scottish Human Rights Commission (SHRC) for the 72nd Session (*section on LGBTI domestic violence and mentions LGBTI discrimination in access to health care*).
- NHRI submission by the Equality and Human Rights Commission for the 72nd PSWG (*mentions prevalence of LGBT hate speech and harassment, and trans women's barriers to health care*).
- NHRI submission by the Northern Ireland Human Rights Commission for the 72nd PSWG (*calls for a sexual orientation strategy, representation of LGBT women, and access to IVF for lesbians*).
- NHRI submission by the Scottish Human Rights Commission (SHRC) for the 72nd PSWG (*mentions LGBTI discrimination in access to reproductive health care*).

Uruguay

- Submission by Colectivo Ovejas Negras, Akahatá, Synergia and SRI for the 74th PSWG (*stand-alone report on LBT women's rights, including legal recognition of their children, and murder and violence against trans women*).
- Submission by CLADEM, Colectiva Mujeres and Cotidiano Mujer for the 74th PSWG (*mentions femicides of trans women*).

5. INDIVIDUAL COMMUNICATIONS

K.K. v. Russian Federation, communication No. 98/2016, views of 25 February 2019¹⁶

Background

1. The author is K.K., a Russian national born in 1983. She claims a violation of her rights guaranteed by articles 2 (b), (d) and (e), 5 (a) and 7 (c) of the Convention. The Russian Federation ratified the Convention and the Optional Protocol thereto on 23 January 1981 and 28 July 2004, respectively.

Facts as submitted by the author

2.1 The author, who is an activist for lesbian, gay, bisexual and transgender rights and a volunteer legal counsel for the organization Vykhod, was invited to assist with running the QueerFest festival held in 2013. On 19 September 2013, at the entrance of the building in which the event was held, she saw a deputy of the Saint Petersburg Legislative Assembly, Vitaly Milonov, with representatives of the police and several other men, whom she recognized as perpetrators of previous assaults against activists for lesbian, gay, bisexual and transgender rights. Under instructions from Mr. Milonov, the police requested that the organizers of the event provide them with the lease documents for the venue. The author intervened to clarify the legal aspects of the request. At that moment, Mr. Milonov interrupted the conversation, saying that the author and other participants of the event were not Russians and that they bowed to foreign diplomats and begged them for money. Subsequently, he and his party continued to threaten and insult visitors and volunteers at the festival. In particular, he used such words as “*spidozny*”, “*petukh*” and “*petushatnik*”. With regard to women, he used the phrases “cut your hair, animal” and “beast”, and he called one woman the “husband” of another woman. He called the author “*stukachka*” and “*kovyryalka*”, when, seeing one of Mr. Milonov’s men trying to use violence against an event participant, she had asked police officers to intervene. However, the police officers took no action in response to the offensive conduct against the author.

2.2 On 30 September 2013, the author filed a request to initiate proceedings against Mr. Milonov [...]. The Office in Primorsky District rejected the request on 17 October 2013 on the grounds that the Code of Administrative Offences did not contain any regulations with regard to the administrative liability of deputies, because deputies of the Legislative Assembly had immunity [...]. On 20 March 2014, the Primorsky District Court of Saint Petersburg rejected the appeal.

2.3 On 9 November 2013, the author filed a civil lawsuit against Mr. Milonov with the Oktyabrsky District Court of Saint Petersburg [...]. On 29 April 2014, the lawsuit was rejected, in a decision stating that there was no evidence proving that the defendant had made offensive statements.

2.4 On 28 May 2014, the author appealed to the Saint Petersburg City Court against the decision of the Kirovsky District Court. On 14 October 2014, the Saint Petersburg City Court denied the appeal.

2.5 On an unspecified date, the author filed a cassation appeal to the Presidium of the Saint Petersburg City Court. On 27 February 2015, the Presidium denied the appeal [...].

Complaint

3.1 The author claims that the State party has not provided effective legal protection tools and has not recognized the violation of her rights nor provided compensation or application of any other procedures aimed to restore her rights.

3.2 The author alleges a violation of her rights under articles 2 (b), (d) and (e) of the Convention, due to the humiliation and insult of her honour and dignity on the basis of her sexual orientation and gender identity and her affiliation with the lesbian, gay, bisexual and transgender communities.

3.3 The author also claims violation of her rights under article 5 (a) of the Convention, because she was humiliated and insulted for her non-compliance with stereotypes regarding the traditional role of women in gender relations and the social roles of lesbian, bisexual and transgender women.

3.4 Furthermore, the author claims a violation of article 7 (c) of the Convention, due to the discrimination and negative attitude that she experienced working as an advocate for an organization for lesbian, gay, bisexual and transgender rights.

[...]

Issues and proceedings before the Committee

8.1 [...] the Committee is satisfied that the same matter has not been and is not being examined under another procedure of international investigation or settlement.

8.2 The Committee recalls that, under article 4 (1) of the Optional Protocol, it is precluded from considering a communication unless it has ascertained that all available domestic remedies have been exhausted or that the application of such remedies is unreasonably prolonged or unlikely to bring effective relief. [...]

[...]

8.4 [...] Given that, in the present case, the author has petitioned the higher courts to re-evaluate the provided evidence and facts, the Committee considers that a further appeal in cassation would not constitute an effective remedy for the author. With regard to the State party's claim that the author could have submitted complaints to the regional or federal ombudsperson, the Committee refers to the jurisprudence of the Human Rights Committee and the European Court of Human Rights, according to which an ombudsperson institution does not constitute an effective remedy. [...]

8.5 The Committee notes the author's claims under articles 2 (b), (d) and (e), 5 (a) and 7 (c) of the Convention. According to the author, the State party failed to recognize the discrimination and humiliation that she had suffered due to her sexual orientation and gender identity. The Committee also notes that [...] the national courts did not find the defendant's words to be insulting or degrading to the honour and dignity of the author, because those words and phrases did not personally characterize the author, did not contain insulting, swear or abusive words and reflected only the subjective opinion of the defendant towards the happenings, which he was free to express under the Constitution of the Russian Federation and international law. It further notes that the State party has pointed out that the national courts concluded that there had been no violation of the author's personal, non-pecuniary rights, including the right not to be subjected to discrimination.

8.6 The Committee notes that, in substance, the author's claims aim at challenging the manner in which the national courts assessed the circumstances of her case and applied national law. [...] The Committee considers that it is generally for the courts of the States parties to the Convention to evaluate the facts and evidence and the application of national law in a particular case, unless it can be established that such evaluation was biased or based on harmful gender stereotypes that constitute discrimination against women, was clearly arbitrary or amounted to a denial of justice. In that connection, the Committee notes that nothing in the material before it suggests elements likely to demonstrate that the examination [...] suffered from any such defects. The Committee observes that both sides of the lawsuit were able to put forward their specialists' opinions on the meaning of the words used towards the author, some of which had several meanings, including offensive, and that the courts determined that the author's claims of discrimination and humiliation due to her sexual orientation were not corroborated by sufficient evidence. In the light of the foregoing, and in the absence of any other pertinent information on file, the Committee considers that the communication is insufficiently substantiated for the purposes of admissibility and that it is therefore inadmissible under article 4 (2) (c) of the Optional Protocol.

9. The Committee therefore decides that:

- (a) The communication is inadmissible under article 4 (2) (c) of the Optional Protocol;
- (b) The present decision shall be communicated to the State party and to the author.