



**UN Committee on the Rights of the Child (CRC):  
80<sup>th</sup> Session, 14 January - 1 February 2019, and  
82<sup>nd</sup> Pre-Sessional Working Group, 4-8 February 2019**

State reports reviewed: Bahrain, Belgium , Guinea , Italy , Japan ,  
Syrian Arab Republic

Lists of Issues adopted: Australia , Bosnia and Herzegovina , Luxembourg ,  
Mozambique, Portugal , Republic of Korea

*30 April 2019*

Prepared by Maria Ihler, edited by Kseniya Kirichenko  
ILGA's UN Programme (Treaty Bodies and Special Procedures)  
[kseniya@ilga.org](mailto:kseniya@ilga.org)

**RESUME:**

- Five LGBTI-inclusive recommendations to **Belgium, Guinea, Italy and Japan:**
  - Prevent discrimination of LGBTI children (Guinea, Italy, Japan), including through affirmative action (Italy) and targeted social services (Guinea)
  - Prevent unnecessary medical treatment of intersex children (Belgium, Italy)
  - Educate health professionals on sexual and biological diversity (Italy)
  - Two urgent recommendations (Italy, Japan)
  - One stand-alone recommendation on intersex (Italy)
  - First SOGIESC recommendations to Guinea, Italy and Japan
- Seven SOGIESC questions to **Australia, Bosnia and Herzegovina, Luxembourg, Portugal and Republic of Korea:**
  - Same-sex couples' right to family and adoption (Portugal)
  - Discrimination against LGBTI children (Australia, Bosnia and Herzegovina)
  - Data on trans youth, intersex children and children of LGBT parents (Portugal)
  - Discrimination based on sexual orientation in detention and in shelters (Korea)
  - One stand-alone intersex question (Luxembourg)

- **Next Session: 13 to 31 May 2019**
  - Countries (main review): Botswana, Cabo Verde, Côte d'Ivoire, Malta, Singapore and Tonga
  - NGO report deadline: 15 April 2019 (to [Child Rights Connect](#))
- **Next PSWG: 3 to 7 June 2019**
  - Countries (for LOI): Austria, Belarus, Cook Islands, Costa Rica, Micronesia, Rwanda, State of Palestine and Tuvalu
  - NGO report deadline: 1 March 2019 (to [Child Rights Connect](#))

## Table of Contents

1. SUMMARY .....	3
1.1. Concluding Observations .....	3
1.2. Lists of Issues (LOIs) and Lists of Issues Prior to Reporting (LOIPRs) .....	5
1.3. Individual Complaints .....	5
2. COMPILATION OF CONCLUDING OBSERVATIONS .....	6
<i>Belgium</i> .....	6
<i>Guinea</i> .....	6
<i>Italy</i> .....	7
<i>Japan</i> .....	8
3. COMPILATION OF LISTS OF ISSUES .....	9
<i>Australia</i> .....	9
<i>Bosnia and Herzegovina</i> .....	9
<i>Luxembourg</i> .....	9
<i>Portugal</i> .....	10
<i>Republic of Korea</i> .....	10
4. CIVIL SOCIETY SUBMISSIONS .....	11
<i>Belgium</i> .....	11
<i>Italy</i> .....	11
<i>Japan</i> .....	11
<i>Luxembourg</i> .....	11
<i>Syrian Arab Republic</i> .....	11

# 1. SUMMARY

The UN Committee on the Rights of the Child (CRC) published six Lists of Issues and six Concluding Observations as a result of its **80<sup>th</sup> Session** (14 January to 1 February 2019) and **82<sup>nd</sup> Pre-Sessional Working Group** (4 to 8 February 2019).

SOGIESC<sup>1</sup>-inclusive **recommendations** were issued to four States, including a stand-alone recommendation on intersex children to **Italy** to give children bodily autonomy and educate health personnel. **Belgium** was also urged to prohibit unnecessary medical treatment of intersex children. The remaining recommendations centered on preventing discrimination against LGBTI children, including through targeted social services (**Guinea**), affirmative action (**Italy**) and human rights education (**Japan**). Both Italy's and Japan's recommendations were marked as "urgent" by the Committee. These were also CRC's first SOGIESC recommendations to Guinea, Italy and Japan.

Furthermore, five of six **Lists of Issues** contained SOGIESC questions, despite only one civil society submission on the topic. They concerned discrimination of LGBTI children (**Australia**, **Bosnia and Herzegovina**, **Republic of Korea**), LGBT families (Bosnia and Herzegovina, **Portugal**); and data on intersex children (**Luxembourg**, Portugal). Luxembourg also received a stand-alone intersex question.

Overall, the Committee showed a willingness to address a broad range of issues and measures for LGBTI children, assisted by, but not limited to, input from **civil society**. The Committee also distinguished between intersex and LGBT issues. However, it entirely omitted expressing SOGIESC concerns to Bahrain, Mozambique and the Syrian Arab Republic.

## 1.1. Concluding Observations

During its **80<sup>th</sup> Session**, CRC reviewed the periodic reports of six States: Bahrain, Belgium, Guinea, Italy, Japan and the Syrian Arab Republic. Four States received SOGIESC recommendations, three (Guinea, Italy, Japan) for the first time.

**Belgium** received an intersex-inclusive recommendation, in which the Committee urged the State to prohibit unnecessary or deferrable medical treatment of intersex children. It further recommended providing intersex children and their families with counselling, support and remedies, including by lifting the statute of limitations.

**Guinea** was urged to strengthen efforts to combat discrimination and prioritise and target social services to the most marginalised and disadvantaged children, including LGBTI.

**Italy** received two SOGIESC recommendations. The Committee advised the State to combat discrimination and negative attitudes against children based on, inter alia, SOGI, and to enact affirmative action for marginalised and disadvantaged children, among them LGBT children, children in LGBT families and intersex children. CRC further listed this as one of its priority or "urgent" recommendations to the State.

Second, CRC gave **Italy** a stand-alone recommendation for intersex children, asking for a rights-based health care protocol which guarantees bodily autonomy and integrity, prevents unnecessary medical treatment and provides families with counselling and support. It further urged the State to educate medical and psychological professionals on sexual and biological diversity and the consequences of unnecessary medical interventions on intersex children.

<sup>1</sup> SOGIESC: Sexual orientation, gender identity and expression, and sex characteristics

Finally, [Japan](#) received a recommendation to reduce discrimination of LGBTI children and other marginalised groups, including through strengthening awareness-raising campaigns and human rights education. This recommendation was also marked as “urgent” by CRC.

Belgium, Italy and Japan had all received SOGIESC questions in their Lists of Issues prior to the Session, focusing on the same issues as the recommendations: intersex genital mutilation ([Belgium](#)), discrimination of and data about LGBTI children and families, including intersex surgeries ([Italy](#)), and measures to combat discrimination and hate speech against LGBTI children ([Japan](#)).

The three States also had SOGIESC-inclusive [submissions from civil society](#) and NHRIs. While [Belgium](#) did not receive any relevant reports for the Session, three submissions for the LOI, including a stand-alone report on LGBT children, provided information on LGBTI, trans and intersex youth. [Italian](#) civil society mentioned SOGI-based discrimination and LGB families, in addition to a stand-alone report on intersex genital mutilation. Finally, [Japanese](#) submissions for both the LOI and COs contained several sections on LGBTI discrimination, in particular education, bullying, suicide and gender identity.

The SOGIESC-inclusive LOIs and civil society submissions were clearly linked to the recommendations issued, showing how civil society efforts for the PSWGs can carry over to the Sessions themselves. On the other hand, Guinea had not received any LGBTI-inclusive questions or civil society reports prior to the recommendation being issued.

Finally, during the constructive dialogues, the delegations of Belgium and Japan discussed measures to combat SOGIESC-based discrimination, in response to questions in their LOIs. This did not prevent CRC from issuing recommendations on these issues, however. The [Belgian delegation](#) mentioned programmes were launched across the country to combat homophobia and other discrimination. It further said there was no ban on non-urgent treatment of intersex children, but that children capable of judging their own interest could have their say, including refusing live-saving treatment. It was up to the staff to evaluate a patient’s maturity. Finally, [Japan’s delegation](#) said the State was conducting awareness-raising activities on the rights of sexual minorities.

Country	SOGIESC in previous CO*	SOGIESC in LOI**	SOGIESC in the constructive dialogue***	SOGIESC in CSS****	SOGIESC in COs
<a href="#">Bahrain</a>	No	No	No	No	No
<a href="#">Belgium</a>	No	Yes	Yes	Yes	Yes
<a href="#">Guinea</a>	No	No	No	No	Yes
<a href="#">Italy</a>	No	Yes	N/A	Yes	Yes
<a href="#">Japan</a>	No	Yes	Yes	Yes	Yes
<a href="#">Syrian Arab Republic</a>	No	No	No	Yes	No

\* CO – Concluding Observations

\*\* LOI – List of Issues

\*\*\* According to the press releases

\*\*\*\* CSS – Civil Society Submission

**Text in bold links to the source material.**

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

During its **82<sup>nd</sup> Pre-Sessional Working Group**, CRC produced questions for six States that are to be reviewed in the future: LOIs for Botswana, Cabo Verde, Côte d'Ivoire, Malta, Singapore and Tonga, and an LOIPR for the simplified reporting procedure of Luxembourg.

**SOGIESC questions** were issued to all State parties except Mozambique. Three questions concerned intersex children, including a stand-alone question to Luxembourg. Other issues concerned discrimination, data and family rights.

**Australia** was asked about measures to eliminate discrimination against LGBTI children and other vulnerable groups, including to prohibit discrimination based on sexual orientation and gender identity.

**Bosnia and Herzegovina** was asked about measures to combat discrimination against LGBTI children, children of LGBTI parents, and other groups.

**Luxembourg** was asked about protocols for the treatment of intersex children, redress available to those who have undergone unnecessary treatment, and the counselling and support available to families. In addition, the Committee asked for data on the number of intersex children subjected to irreversible surgery.

**Portugal** was asked how children were affected by the law on the rights to adoption and family for same-sex and unmarried couples. The Committee also asked for data on children with LGBT parents, children who have changed name and gender, intersex children and non-urgent surgeries performed on intersex children without consent.

Finally, the **Republic of Korea** was asked about measures to combat discrimination based on sexual orientation for children seeking shelters and children who are in detention.

Luxembourg was the only State with **submissions from civil society**, including a stand-alone report on intersex genital mutilation. This likely encouraged the adoption of two intersex questions from the Committee. However, as evidenced by the other LOIs, CRC also showed a clear willingness to raise SOGIESC issues on its own.

The five States that received LOIs will have their periodic reports reviewed by the Committee at its **82<sup>nd</sup> Session**, on 9 to 27 September 2019. The Session dates for Luxembourg have yet to be determined.

## 1.3. Individual Complaints

The Committee considered three individual complaints in relation to its 80<sup>th</sup> Session. The communication did not make reference to SOGIESC.

## 2. COMPILATION OF CONCLUDING OBSERVATIONS

**Belgium** – Concluding Observations – 80<sup>th</sup> Session, 28 February 2019, 5<sup>th</sup> and 6<sup>th</sup> review<sup>2</sup>

### **E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39) Harmful practices**

25. The Committee notes with concern that:

[...]

(b) Intersex children are subjected to medically unnecessary surgeries and other procedures.

26. With reference to joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices, and taking into account target 5.3 of the Sustainable Development Goals, the Committee urges the State party:

[...]

(e) To prohibit the performance of unnecessary medical or surgical treatment on intersex children where those procedures may be safely deferred until children are able to provide their informed consent; and ensure that intersex children and their families have access to adequate counselling and support and to effective remedies, including by lifting the relevant statute of limitations.

**Guinea** – Concluding Observations – 80<sup>th</sup> Session, 28 February 2019, 3<sup>rd</sup> to 6<sup>th</sup> review<sup>3</sup>

### **C. General principles (arts. 2, 3, 6 and 12) Non-discrimination**

17. Taking note of targets 5.1 and 10.3 of the Sustainable Development Goals, the Committee recalls its previous recommendations (CRC/C/GIN/CO/2, para. 37) and urges the State party to:

(a) Develop and implement a comprehensive national strategy against all forms of discrimination;

(b) Continue and strengthen its activities to combat discrimination and to prioritize and target social services for children in the most marginalized and disadvantaged situations, in particular with regard to girls, including non-circumcised girls, children with disabilities, children with albinism, lesbian, gay, bisexual, transgender and intersex children, child survivors of Ebola, children infected or affected by HIV/AIDS, children living in rural areas and/or in poverty and children who have served sentences;

(c) Amend the Civil Code (1983) and ensure that all the discriminatory provisions against girls and children born to unmarried parents with regard to succession are abolished in the new Civil Code.

<sup>2</sup> CRC/C/BEL/CO/5-6

<sup>3</sup> CRC/C/GIN/CO/3-6

### III. Main areas of concern and recommendations

4. [...] The Committee would like to draw the State party's attention to the recommendations concerning the following areas, in respect of which urgent measures must be taken: allocation of resources (para. 8); non-discrimination (para. 15); education (para. 32); asylum-seeking and refugee children (para. 34); and children in situations of migration (para. 36).

#### C. General principles (arts. 2, 3, 6 and 12)

##### Non-discrimination

14. The Committee reiterates its previous concerns (CRC/C/ITA/CO/3-4, para. 24), in particular:

[...]

(b) The prevalence of negative attitudes towards children based on their status, origin, sexual orientation or gender identity.

15. Taking note of targets 5.1 and 10.3 of the Sustainable Development Goals, the Committee recommends that the State party ensure full protection against all forms of discrimination, including advocacy of national, racial or religious hatred, by:

[...]

(b) Strengthening its measures to combat negative attitudes among State representatives and the public;

(c) Strengthening other preventive activities against discrimination and, if necessary, taking affirmative action for the benefit of children and in particular children in marginalized and disadvantaged situations, such as asylum-seeking, refugee and migrant children; stateless children; children belonging to minorities, including Roma, Sinti and Caminanti children; children born to unmarried parents; lesbian, bisexual, gay or transgender children and children living in lesbian, bisexual, gay or transgender families; intersex children; children with disabilities; and children in street situations.

#### E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)

##### Harmful practices

23. The Committee recommends that the State party:

(a) Develop and implement a child rights-based health-care protocol for intersex children, setting the procedures and steps to be followed by health teams, ensuring that no one is subjected to unnecessary medical or surgical treatment during infancy or childhood, guarantee bodily integrity, autonomy and self-determination to children concerned, and provide families with intersex children with adequate counselling and support;

(b) Educate and train medical and psychological professionals on the range of sexual, and related biological and physical, diversity and on the consequences of unnecessary surgical and other medical interventions for intersex children.

### **III. Main areas of concern and recommendations**

4. [...] The Committee would like to draw the State party's attention to the recommendations concerning the following areas, in respect of which urgent measures must be taken: non-discrimination (para. 18), respect for the views of the child (para. 22), corporal punishment (para. 26), children deprived of a family environment (para. 29), reproductive and mental health (para. 35) and juvenile justice (para. 45).

#### **C. General principles (arts. 2, 3, 6 and 12)**

##### **Non-discrimination**

17. [...] The Committee remains concerned, however, that:

- (a) There is no comprehensive anti-discrimination law;
- (b) Discriminatory provisions on the illegitimacy of children born to unmarried parents in the Family Register Act have been partially retained, in particular those that concern birth notification;
- (c) Societal discrimination persists against children of various marginalized groups.

**18. The Committee urges the State party to:**

- (a) Enact comprehensive anti-discrimination legislation;**
- (b) Repeal all provisions that discriminate against children on any basis, including those that relate to the status of children born to unmarried parents;**
- (c) Strengthen the measures, including awareness-raising programmes, campaigns and human-rights education, to reduce and prevent discrimination in practice, particularly against children belonging to ethnic minorities, including Ainu people, children of Buraku people, children of non-Japanese origin, such as Korean, children of migrant workers, lesbian, gay, bisexual, transgender and intersex children, children born outside marriage and children with disabilities.**

#### **States with no SOGIESC recommendations:**

- Bahrain
- Syrian Arab Republic



### 3. COMPILATION OF LISTS OF ISSUES

#### **Australia** – List of Issues – 82<sup>nd</sup> PSWG, 1 March 2019, 5<sup>th</sup> and 6<sup>th</sup> periodic reports<sup>6</sup>

4. Please provide information on measures taken to eliminate de facto discrimination against girls, Aboriginal and Torres Strait Islander children, children living in remote areas, refugee, asylum-seeking and migrant children, children with disabilities, and lesbian, gay, bisexual, transgender and intersex children, including measures to combat gender stereotypes, address disparities in access to services, evaluate the Northern Territory National Emergency Response Act (2007) and prohibit discrimination on the basis of sexual orientation or gender identity.

#### **Bosnia and Herzegovina** – List of Issues – 82<sup>nd</sup> PSWG, 28 February 2019 2018, 5<sup>th</sup> and 6<sup>th</sup> periodic reports<sup>7</sup>

4. In the light of the Law on Prohibition of Discrimination (2009), please describe further legal and awareness-raising measures taken to combat discrimination against children, particularly Roma children, children with disabilities, migrant, asylum-seeking and refugee children, and lesbian, gay, bisexual, transgender and intersex children and children of parents belonging to that community. Please explain plans to eliminate discrimination against children in exercising their rights and in their access to various services based on their place of residence.

#### **Luxembourg** – List of Issues Prior to Reporting – 82<sup>nd</sup> PSWG, 5 March 2019, 5<sup>th</sup> and 6<sup>th</sup> periodic reports<sup>8</sup>

##### **II. Rights under the Convention and its Optional Protocols**

##### **D. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**

##### **Harmful practices**

18. Please provide information on any regulation of and protocol for the treatment of intersex children. Please inform the Committee also about measures to provide families with intersex children with adequate counselling and support, and on rehabilitation and redress to intersex children who have undergone unnecessary and irreversible medical or surgical treatment.

##### **III. Statistical information and data**

##### **D. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**

37. Please provide data, disaggregated, on:

- (a) The number of cases of violence against children, including corporal punishment, and the sanctions issued to perpetrators, disaggregated by type of offence;
- (b) The number of intersex children subjected to medically irreversible surgery and the number of children with disabilities subjected to forced sterilization and medication, including contraception;
- (c) The number and type of protective measures provided to child victims of violence.

<sup>6</sup> CRC/C/AUS/Q/5-6

<sup>7</sup> CRC/C/BIH/Q/5-6

<sup>8</sup> CRC/C/LUX/QPR/5-6

## Portugal – List of Issues – 82<sup>nd</sup> PSWG, 28 February 2019, 5<sup>th</sup> and 6<sup>th</sup> periodic reports<sup>9</sup>

### Part I

4. Please provide information on the effect on children of Law No. 2/2016 on the elimination of discrimination against same-sex and non-married couples with regard to adoption, civil sponsorship and other family relationships.

### Part III

#### Data, statistics and other information, if available

15. Please provide, if available, updated statistical data disaggregated by age, sex, type of disability, ethnic origin, national origin, geographic location and socioeconomic status, for the past three years, on the number of:

[...]

(d) Children living in families with lesbian, gay, bisexual or transgender parents;

[...]

(f) Children above the age of 16 who have changed their name and gender;

[...]

(j) Children who are born intersex;

(k) Non-urgent, irreversible surgical and other procedures that have been carried out on intersex children before an age at which they are able to provide informed consent;

[...]

## Republic of Korea – List of Issues – 82<sup>nd</sup> PSWG, 6 March 2019, 5<sup>th</sup> and 6<sup>th</sup> periodic reports<sup>10</sup>

5. Please clarify the status of the draft amendments to the Family Litigation Act to extend the right to be heard to children under the age of 13. Please specify the efforts made to address:

(a) Discrimination against children based on sexual orientation while in detention and in accessing shelters;

(b) The increase in “child-free zones” in restaurants and cafes.

### States with no SOGIESC questions:

- Mozambique

<sup>9</sup> CRC/C/PRT/Q/5-6

<sup>10</sup> CRC/C/KOR/Q/5-6

## 4. CIVIL SOCIETY SUBMISSIONS

### Belgium

- Submission by [Çavaria – standing up for LGBT’s](#) for the 80<sup>th</sup> PSWG (*stand-alone report on LGBTI children, with sections on trans and intersex children and the education system*).
- NHRI submission by the [Flemish and French children's rights commissioners](#) for the 80<sup>th</sup> PSWG (*recommends data collection, gender-neutral facilities and respect for transgender youth*).
- Submission by [Myria, Unia and the Combat Poverty, Insecurity and Social Exclusion Service](#) for the 80<sup>th</sup> PSWG (*recommends an inclusive, structural approach for LGBT youth in schools*).

### Italy

- Submission by the [CRC Group](#) for the 80<sup>th</sup> Session (*section on discrimination and hate based on sexual orientation and gender identity, education and legal recognition of LGB families*).
- NHRI submission by the [Italian Authority for Children and Adolescents](#) for the 80<sup>th</sup> PSWG (*mentions need to monitor anti-discrimination measures on sexual orientation and gender identity*).
- Submission by the [CRC Group](#) for the 80<sup>th</sup> PSWG (*mentions discrimination against children based on sexual orientation and gender identity*).
- Submission by [StopIGM.org / Zwischengeschlecht.org](#) for the 80<sup>th</sup> PSWG (*stand-alone report on intersex genital mutilation in Italy*).

### Japan

- Submission by [Citizens and NGOs Association for the CRC](#) for the 79<sup>th</sup> PSWG (*several sub-sections on sexual minorities, including bullying, education, discrimination and gender identity*).
- Submission by [Citizens and NGOs Association for the CRC](#) for the 80<sup>th</sup> Session (*mentions lack of protection for sexual minorities and public hate speech against same-sex couples*).
- Submission by [Committee for NGO Reporting on the CRC](#) for the 79<sup>th</sup> PSWG (*section on LGBTI children in schools and their vulnerability to bullying and suicide, recommending teacher training, anti-discrimination laws, gender-neutral uniforms and facilities, and victim support*).
- Submission by [Committee for NGO Reporting on the CRC](#) for the 80<sup>th</sup> Session (*mentions lack of anti-discrimination legislation for LGBTI persons*).
- Submission by [Human Rights Watch](#) for the 79<sup>th</sup> PSWG (*section on LGBT rights and sex education in schools, including the pathologisation of gender identity*).
- Submission by the [Japan Federation of Bar Associations](#) for the 80<sup>th</sup> Session (*mentions that LGBTI children are not covered by hate speech legislation*).

### Luxembourg

- Submission by [StopIGM.org / Zwischengeschlecht.org](#) for the 82<sup>nd</sup> PSWG (*stand-alone report on intersex genital mutilation in Luxembourg*).

### Syrian Arab Republic

- Submission [All Survivors Project Foundation](#) for the 80<sup>th</sup> PSWG (*mentions LGBTI youth as vulnerable to sexual violence, and male victims’ fear of reporting rape due to criminalisation*).