



## UN Committee on the Rights of Persons with Disabilities (CRPD): 20<sup>th</sup> Session, 27 Aug - 21 Sep 2018, and 10<sup>th</sup> Pre-Sessional Working Group, 24-27 Sep 2018

**State reports reviewed:** Algeria, Bulgaria, Malta,  **Philippines**,  **Poland**, South Africa and the former Yugoslav Republic of Macedonia

**Lists of Issues adopted:**  **Austria**, Azerbaijan,  **Germany**, Iraq, Mongolia, Niger,  **Norway**, Rwanda, Saudi Arabia, Senegal,  **Sweden**, Turkey and Vanuatu

30 November 2018

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:

- Four SOGI-inclusive recommendations were issued to the [Philippines](#) and [Poland](#):
  - Recommendations to both States on intersectional discrimination mentioned sexual orientation and gender identity.
  - Recommendation to Poland to end “conversion therapy” of LGBT persons.
- Questions on LGBTI persons sent to [Austria](#), [Germany](#), [Norway](#) and [Sweden](#):
  - Stand-alone questions on intersex children to Austria, Germany and Norway, concerning non-consensual surgeries and legal redress.
  - Questions on intersectional discrimination and consultations to Norway and Sweden.
- A new [General Comment](#) on the participation of persons with disabilities:
  - State obliged to consult with all groups, including LGBTI persons with disabilities.

- Next Session: [11 March to 5 April 2019](#)
  - Countries (main review): Cuba, Niger, Norway, Rwanda, Saudi Arabia, Senegal, Spain, Turkey, Vanuatu
  - Countries (for LOIPR): Belgium, Cook Islands, Czech Republic, Denmark
  - [NGO report deadline](#): 11 February 2019 (to [crpd@ohchr.org](mailto:crpd@ohchr.org))
- Next PSWG: [8 to 11 April 2019](#)
  - Countries (for LOI): Albania, Bangladesh, Estonia, Greece, India, Jamaica, Kuwait, Myanmar
  - [NGO report deadline](#): 11 February 2019 (to [crpd@ohchr.org](mailto:crpd@ohchr.org))

## Table of Contents

1. SUMMARY .....	3
1.1. Concluding Observations.....	3
1.2. Lists of Issues and Lists of Issues Prior to Reporting .....	4
1.3. General Comments.....	5
1.4. Individual Complaints.....	5
2. COMPILATION OF CONCLUDING OBSERVATIONS .....	6
<i>Philippines</i> .....	6
<i>Poland</i> .....	6
3. COMPILATION OF LISTS OF ISSUES .....	8
<i>Austria</i> .....	8
<i>Germany</i> .....	8
<i>Norway</i> .....	9
<i>Sweden</i> .....	10
4. GENERAL COMMENTS .....	11
5. CIVIL SOCIETY SUBMISSIONS .....	12
<i>Austria</i> .....	12
<i>Germany</i> .....	12
<i>Poland</i> .....	12
<i>Turkey</i> .....	12

# 1. SUMMARY

The UN Committee on the Rights of Persons with Disabilities published its Lists of Issues and Concluding Observations as a result of the [20<sup>th</sup> Session](#) (27 August to 21 September 2018) and the [10<sup>th</sup> Pre-Sessional Working Group](#) (24 to 27 September 2018).

Questions pertaining to SOGIESC<sup>1</sup> were sent to four (Austria, Germany, Norway, Sweden) out of thirteen States, and LGBT-inclusive recommendations were issued to two (Philippines, Poland) out of seven States.

The Committee recommended LGBT persons with disabilities to be included in intersectional anti-discrimination measures and civil society consultations. Poland was furthermore urged to end the practice of “conversion therapy” on LGBT persons.

The Lists of Issues for Austria, Germany and Norway contained stand-alone questions on intersex children and non-consensual surgeries. Austria and Germany had also received stand-alone civil society submissions on the topic. Norway and Sweden were asked to report on the inclusion of LGBTI persons with disabilities in anti-discrimination measures.

There were no stand-alone questions or recommendations on LB women or trans people. However, lesbians and sexual minority women with disabilities were brought up in the [constructive dialogue](#) with Poland. Poland was the State to receive the most attention and consistent focus on SOGI issues, in particular conversion therapy.

CRPD also adopted a new General Comment at its 20<sup>th</sup> Session, on the participation of persons with disabilities in the implementation of the Convention. References to sexual orientation, gender identity and intersex persons were made in three paragraphs.

## 1.1. Concluding Observations (COs)

During its 20<sup>th</sup> Session, CRPD reviewed the initial reports of seven State parties: Algeria, Bulgaria, Malta, Philippines, Poland, South Africa and the former Yugoslav Republic of Macedonia. Two States received SOGI recommendations in their concluding observations: the Philippines and Poland.

[The Philippines](#) received one recommendation inclusive of LGBT people. The Committee recommended the State adopt a comprehensive strategy against intersectional discrimination of disabled persons, including on the grounds of sexual orientation and gender identity.

[Poland](#) received three SOGI-inclusive recommendations. The Committee expressed concern over reports of conversion therapy for LGBT+ people and called for an end to the practice, along with SOGI-sensitive support to persons with psychosocial disabilities. They also recommended legislation recognising intersectional discrimination, including on grounds of sexual orientation, and that the State ensure the full-scale involvement of organisations for persons with disabilities, including LGBT+ people, in the design of relevant laws and policies.

Neither State was asked to report on the follow-up of these recommendations.

Algeria and Poland were the only States having received questions pertaining to SOGIESC in their Lists of Issues, adopted at the CRPD’s 9<sup>th</sup> PSWG. Algeria had been asked about legislation prohibiting intersectional discrimination against, inter alia, LGBTI persons with disabilities. Poland received a stand-alone question on combatting discrimination against LGBTI persons with disabilities, and on whether conversion therapies would be prohibited<sup>2</sup>. These also became recommendations in the Poland’s Concluding Observations.

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

<sup>2</sup> See [ILGA’s report](#) of the Session for a description.

[Poland](#) was also the only State with civil society submissions on SOGIESC issues for the review, including a stand-alone report on conversion therapy and intersectional discrimination of LGBTI persons.

Finally, SOGIESC was brought up in the constructive dialogues with the State delegations of Malta and Poland. The Maltesian delegation mentioned sexual orientation and gender identity in relation to intersectional discrimination. However, more substantial references to SOGI occurred in the Committee's [dialogue with Poland](#). The State delegation was questioned on the discrimination, support and protection of lesbians and sexual minority women with disabilities, on the prosecution of hate crimes based on, inter alia, sexual orientation, and on the sexual and psychological violence faced by LGBT people undergoing conversion therapy.

Country	SOGIESC in previous CO*	SOGIESC in LOI**	SOGIESC in the constructive dialogues***	SOGIESC in CSS****	SOGIESC in current CO*
<a href="#">Algeria</a>	N/A	<b>Yes</b>	<b>No</b>	No	<b>No</b>
<a href="#">Bulgaria</a>	N/A	<b>No</b>	<b>No</b>	No	<b>No</b>
<a href="#">Malta</a>	N/A	<b>No</b>	<b>Yes</b>	No	<b>No</b>
<a href="#">Philippines</a>	N/A	<b>No</b>	<b>No</b>	No	<b>Yes</b>
<a href="#">Poland</a>	N/A	<b>Yes</b>	<b>Yes</b>	Yes	<b>Yes</b>
<a href="#">South Africa</a>	N/A	<b>No</b>	<b>No</b>	No	<b>No</b>
<a href="#">FYR Macedonia</a>	N/A	<b>No</b>	<b>No</b>	No	<b>No</b>

\*Concluding Observations

\*\*List of Issues

\*\*\*According to press releases and summary records

\*\*\*\*Civil Society Submissions

Text in bold links to the source material.

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

### 20<sup>th</sup> Session

During its 20<sup>th</sup> Session, CRPD produced six sets of questions for State parties that are to be reviewed in the future: an LOI for Iraq, and LOIPRs for the simplified reporting procedure of Austria, Azerbaijan, Germany, Mongolia and Sweden.

Austria, Germany and Sweden each received a SOGIESC question from the Committee. [Sweden](#) was asked to report on mechanisms addressing intersectional discrimination, including for LGBTI persons with disabilities.

Austria and Germany received stand-alone questions on intersex children. [Austria](#) was asked whether intersex children are considered children with disabilities, whether surgery is performed on them, and if so how many. [Germany](#) was asked which measures were taken to implement the intersex recommendations from its previous review in 2015<sup>3</sup>. The recommendations call upon Germany to evaluate the practice of routine surgeries on intersex persons, to acquire informed consent and educate medical professionals, and to provide legal redress and compensation for non-consensual surgeries.

Significantly, [Austria](#) and [Germany](#) had each received a stand-alone report on intersex genital mutilation by StopIGM.org/Zwischengeschlecht.org. They were also the only States among the six to have civil society submissions addressing SOGIESC.

<sup>3</sup> [CRPD/C/DEU/CO/1](#) (para. 38(d)), which refers to [CAT/C/DEU/CO/5](#) (para. 20).

## **10<sup>th</sup> PSWG**

In addition, the Committee adopted Lists of Issues for seven States at its **10<sup>th</sup> Pre-Sessional Working Group** on 24 to 27 September 2018: Niger, Norway, Rwanda, Saudi Arabia, Senegal, Turkey and Vanuatu. SOGIESC questions were issued only to Norway.

CRPD asked **Norway** four SOGIESC questions, including a stand-alone question on intersex persons. Norway was asked about measures to prohibit the sterilisation of and obtain consent from intersex persons, as well as to provide support and legal remedies to intersex persons subject to non-consensual medical procedures.

The Committee further inquired about mechanisms and resources for consulting with sexual and other minorities, and measures to eliminate intersectional discrimination, prejudices and harmful practices on the grounds of, inter alia, SOGIESC.

Among the seven, **Turkey** was the only State to have a civil society submission mentioning LGBTI persons. It made brief references to sexual orientation/LGBTI in the context of intersectional discrimination.

The seven States that were given Lists of Issues at the 10<sup>th</sup> PSWG will have their initial reports reviewed by the Committee at its **21<sup>st</sup> Session**, on 11 March to 5 April 2019. The Session dates for the States that received LOIs/LOIPRs at the 20<sup>th</sup> Session have yet to be determined.

### **1.3. General Comments (GCs)**

The Committee also adopted a new general comment at its 20<sup>th</sup> Session: **GC no. 7** on the participation of persons with disabilities in the implementation of the Convention. The general comment makes reference to sexual orientation, gender identity and intersex persons in three paragraphs, though always in conjunction with other groups.

The GC stresses that there is a right to participation irrespective of, inter alia, SOGI, and that the State is obliged to consult with and include all persons with disabilities, including LGBTI persons.

### **1.4. Individual Complaints**

The Committee considered four individual complaints in relation to its 20<sup>th</sup> Session. None of the communications made reference to SOGIESC.

## 2. COMPILATION OF CONCLUDING OBSERVATIONS

**Philippines** – Concluding Observations – 20<sup>th</sup> Session, 16 October 2018, initial review<sup>4</sup>

### **B. Specific rights (arts. 5–30)**

#### **Equality and non-discrimination (art. 5)**

[...]

**11. The Committee, in line with its general comment No. 6 (2018) on equality and non-discrimination, recommends that the State party:**

[...]

**(b) Adopt a comprehensive strategy to prevent all forms of discrimination against persons with disabilities to prevent intersectional and multiple forms of discrimination against persons with disabilities on the grounds of sex, age, origin, religion, ethnicity, sexual orientation and gender identity, impairment, migrant, asylum-seeking or refugee status, and social status;**

**Poland** – Concluding Observations – 20<sup>th</sup> Session, 21 September 2018, initial review<sup>5</sup>

### **A. General principles and obligations (arts. 1-4)**

**5. The Committee is concerned at the:**

[...]

**(d) Selective and limited involvement and meaningful consultations with organizations of persons with disabilities in policy making;**

[...]

**6. The Committee recommends that the State party:**

[...]

**(d) Ensure active and full-scale involvement and meaningful consultations with various organizations of persons with disabilities, including but not limited to women, children, refugees and asylum-seekers, LGBT+ persons, persons with psychosocial and/or intellectual disabilities, with hearing and visual impairments, persons living in rural areas and persons in need of high level of support, in designing of new laws and strategies to ensure that legislation complies with the Convention, as well as in the implementation, monitoring and reporting on the Sustainable Development Goals;**

[...]

<sup>4</sup> [CRPD/C/PHL/CO/1](#)

<sup>5</sup> [CRPD/C/POL/CO/1](#)

## **B. Specific rights (arts. 5-30)**

### **Equality and non-discrimination (art. 5)**

7. The Committee is concerned at the absence of:

[...]

(b) Recognition of multiple and intersectional discrimination in the anti-discrimination legislation, and prohibition of discrimination against all persons with disabilities on grounds such as sex, age, ethnicity, sexual orientation and gender identity in all areas of life;

[...]

**8. Recalling its general comment No. 6 (2017) on Equality and Non-Discrimination, the Committee recommends that the State party:**

[...]

**(b) Explicitly recognize and prohibit multiple and intersectional discrimination on the grounds of disability, sex, age, ethnicity, gender identity and sexual orientation and any other status in all areas of life within its anti-discrimination legislation, policies and strategies, including the Equality Act;**

[...]

### **Protecting the integrity of the person (art. 17)**

30. The Committee is concerned about the reported forced sterilization of women and girls with disabilities, deprived of their legal capacity, placed under guardianship and living in institutions. It is also concerned by reports of so called “conversion therapy” being performed on LGBT+ persons without consent, by public and private health entities, and based upon the presumed or actual psychosocial disability of a person.

**31. The Committee recommends ensuring that women and girls with disabilities have access to support to make important life decisions for themselves and are not subjected to sterilization without their full, free and informed consent. It also urges to put an end to the use of conversion therapy and offer support for persons with psychosocial disability which respects the gender identity and sexual orientation of a person.**

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

- [Algeria](#)
- [Bulgaria](#)
- [Malta](#)
- [South Africa](#)
- [FYR Macedonia](#)

### 3. COMPILATION OF LISTS OF ISSUES

**Austria** – List of Issues Prior to Reporting – 20<sup>th</sup> Session, 12 October 2018, 2<sup>nd</sup> and 3<sup>rd</sup> review<sup>6</sup>

**B. Specific rights (arts. 5–30)**

[...]

**Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)**

[...]

32. Please indicate whether intersex children are treated as children with disabilities and if surgery continues to be performed on these children in the State party. If so, please provide data on the number of children who have undergone surgery since the the review of the initial report.

[...]

**Germany** – List of Issues Prior to Reporting – 20<sup>th</sup> Session, 21 September 2018, 2<sup>nd</sup> and 3<sup>rd</sup> review<sup>7</sup>

**B. Specific rights (arts. 5–30)**

[...]

**Protecting the integrity of the person (art. 17)**

16. Please inform the Committee about:

(a) Measures to repeal legislation still authorizing the sterilization of persons without their consent, but with the consent of a third party;

(b) Initiatives to implement its recommendations relating to intersex children ([CRPD/C/DEU/CO/1](#), para 38 (d)).

<sup>6</sup> [CRPD/C/AUT/QPR/2-3](#)

<sup>7</sup> [CRPD/C/DEU/QPR/2-3](#)

**A.Purpose and general obligations (arts. 1-4)**

**General obligations (Art.4)**

1.Please inform the Committee on:

[...]

(b) Mechanisms established and human and financial resources available at the national, county and municipal levels for the meaningful consultation with organizations of persons with disabilities, including with those belonging to ethnic, religious, linguistic or sexual minorities, regarding the design and monitoring of legislation and policies aimed at implementing the Convention;

[...]

**B.Specific rights (arts. 5-30)**

**Equality and non-discrimination (art. 5)**

2.Please inform the Committee on measures taken to:

[...]

(b) Prevent and eliminate multiple and intersectional discrimination on the grounds of disability, age, sex, ethnicity, religion, language, origin, nationality, migration status, intersex traits, sexual orientation and gender identity, in accordance with targets 10.2 and 10.3 of the Sustainable Development Goals.

**Awareness-raising (art. 8)**

5. [...] Please also provide information on steps taken to modify and address stereotypes, prejudice and harmful practices against persons with disabilities in all aspects of life, including on the grounds of being intersex, sexual orientation and gender identity, including in schools and in the media.

**Protecting the integrity of the person (art. 17)**

14.Please provide more information on:

[...]

(b) Steps taken to prohibit the sterilization of women and girls with disabilities, as well as of intersex persons, and the castration of boys and men with disabilities without their own free and informed consent, and data on such cases involving persons considered to lack legal capacity. Please indicate the procedures to obtain consent from a third party for carrying out the sterilization of women and girls with disabilities and intersex persons, and the castration of boys and men with disabilities without the consent of the person with disability concerned;

(c) Available support, rehabilitation and legal remedies for intersex persons identifying as persons with disabilities that have been subjected to non-consensual medical procedures, including castration and sterilization.

---

<sup>8</sup> [CRPD/C/NOR/Q/1](#)

**B. Specific rights (arts. 5–30)**

**Equality and non-discrimination (art. 5)**

2. Please provide information about:

[...]

(b) The measures taken to assess any mechanisms designed to address intersecting forms of discrimination with a view to ensuring that they target all forms of discrimination on the basis of disability, including the denial of reasonable accommodation, discrimination by association, and multiple and intersecting forms of discrimination faced by children, women, migrants, refugees, asylum seekers and lesbian, gay, bisexual, transgender and intersex persons with disabilities, and Sami persons with disabilities;

[...]

**States with no SOGIESC questions:**

- [Azerbaijan](#)
- [Iraq](#)
- [Mongolia](#)
- [Niger](#)
- [Rwanda](#)
- [Saudi Arabia](#)
- [Senegal](#)
- [Turkey](#)
- [Vanuatu](#)

---

<sup>9</sup> [CRPD/C/SWE/QPR/2-3](#)

## 4. GENERAL COMMENTS

[General comment No. 7 \(2018\)](#) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention<sup>10</sup>

### II. Normative content of articles 4 (3) and 33 (3)

[...]

### C. Scope of article 4 (3)

[...]

16. All persons with disabilities, without any form of exclusion based on the type of impairment, such as persons with psychosocial or intellectual disabilities, can effectively and fully participate without discrimination on an equal basis with others. The right to participate in consultations, through their representative organizations, should be recognized on an equal basis for all persons with disabilities, irrespective of, for example, their sexual orientation and gender identity. States parties should adopt a comprehensive anti-discrimination framework to ensure the rights and fundamental freedoms of all persons with disabilities, and withdraw legislation criminalizing individuals or organizations of persons with disabilities on grounds of sex, gender or the social status of its members and denying them their rights to participate in public and political life.

### III. Obligations of States parties

[...]

50. States parties should ensure the close consultation and active involvement of organizations of persons with disabilities, which represent all persons with disabilities, including but not limited to women, older persons, children, those requiring high levels of support, victims of landmines, migrants, refugees, asylum seekers, internally displaced persons, undocumented and stateless persons, persons with actual or perceived psychosocial impairments, persons with intellectual disabilities, neurodiverse persons, including those with autism or dementia, persons with albinism, permanent physical impairments, chronic pain, leprosy and visual impairments and persons who are deaf, deafblind or otherwise hearing-impaired and/or those living with HIV/AIDS. The obligation of States parties to involve organizations of persons with disabilities also encompasses those persons with disabilities with a specific sexual orientation and/or gender identity, intersex persons with disabilities, and persons with disabilities belonging to indigenous peoples, national, ethnic, religious or linguistic minorities, and those living in rural areas.

### V. Implementation at the national level

94. The Committee acknowledges that States parties face challenges when implementing the right of persons with disabilities to be consulted and involved in the development, implementation and monitoring of legislation and policies to implement the Convention. States parties should, among others, take the following measures to ensure the full implementation of articles 4 (3) and 33 (3):

[...]

(g) Guarantee and support the participation of persons with disabilities through organizations of persons with disabilities, reflecting a wide diversity of backgrounds, including birth and health status, age, race, sex, language, national, ethnic, indigenous or social origin, sexual orientation and gender identity, intersex variation, religious and political affiliation, migrant status, impairment groups or other status;

[...]

---

<sup>10</sup> [CRPD/C/GC/7](#)

## 4. CIVIL SOCIETY SUBMISSIONS

### Austria

- Submission by [Austrian Monitoring Body](#) for the 20<sup>th</sup> Session (*mentions caretakers/guardians restricting disabled people from entering same-sex (domestic) partnerships*).
- Submission by [Autistic Minority International](#) for the 20<sup>th</sup> Session (*mentions “Jews and homosexuals” as other groups previously considered unworthy of living*).
- Submission by [StopIGM.org / Zwischengeschlecht.org](#) for the 20<sup>th</sup> Session (*stand-alone report on intersex and intersex genital mutilation*).

### Germany

- Submission by [Alliance of civil society organisations](#) for the 20<sup>th</sup> Session (*mentions sexual identity as a ground of discrimination*).
- Submission by [StopIGM.org / Zwischengeschlecht.org](#) for the 20<sup>th</sup> Session (*stand-alone report on intersex and intersex genital mutilation*).

### Poland

- Submission by [Association of Women with Disabilities ONE.pl and Women Enabled International](#) for the 20<sup>th</sup> Session (*refers to a CRPD recommendation to Canada on access to health-care for transgender and gender-diverse persons with disabilities*).
- Submission by [Campaign Against Homophobia, Venus of Milo and Lambda Warsaw](#) (*stand-alone report on conversion therapy and intersectional discrimination against LGBTI persons*).
- Submission by [Ordo Iuris Institute](#) (*section on sexual and gender identity disorders, advocating against the ban of conversion therapy to ensure access to “therapeutic support”*).

### Turkey

- Submission by [Association for Monitoring Equal Rights](#) for the 10<sup>th</sup> PSWG (*mentions SO and LGBTI in the context of intersectional discrimination*).