



## UN Human Rights Committee: 123<sup>rd</sup> Session

31 August 2018

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### RESUME:

- Recommendations on LGBTI issues for **Algeria**, **Bahrain**, **Laos**, **Liberia** and **Lithuania**, including:
  - First recommendations from this Committee to Bahrain, Laos and Liberia
  - Follow-up recommendations on SOGI for Lithuania
  - Adopt a comprehensive anti-discrimination legislation (Algeria, Bahrain and Laos)
  - Decriminalize same-sex relations (Algeria, Bahrain and Liberia)
  - Free everyone imprisoned due to the same-sex ban (Algeria)
  - Provide appropriate procedural protection against discrimination (Laos and Liberia)
  - Create awareness-raising campaigns (Liberia)
  - Protect LGBTI human rights defenders (Liberia)
  - Recognize same-sex couple (Lithuania)
  - Combat hate speech and hate crimes (Lithuania)
  - Stand-alone recommendation on legal gender recognition (Lithuania) and on GI-inclusive legislation on hate crimes and hate speech (Lithuania)
  - No stand-alone recommendations on intersex or LGBTI women.
- Questions on LGBTI protection, non-discrimination, criminalisation of same-sex relations and violence against LGBTI individuals for **Eritrea**, **Gambia**, **Niger**, **Viet Nam**, and **Germany**, including:
  - A stand-alone inquiry on trans persons (Viet Nam)
  - Stand-alone questions on intersex (Germany)
  - No stand-alone references to LGBTI women.
- Two decisions on individual communications:
  - ***Nepomnyashchiy v. Russian Federation*** (freedom of expression, “anti-propaganda” laws), violation of articles 19 and 26 of the ICCPR
  - ***Z.B. v. Hungary*** (asylum seekers, *non-refoulement*), inadmissible

- Next Session: **8 October to 2 November 2018**
  - Countries (main review): Belarus, Belize, Bulgaria, Guinea, Saint Vincent and the Grenadines & Sudan
  - **NGO report deadline**: 10 September 2018 (to [gahbtom@ohchr.org](mailto:gahbtom@ohchr.org) and [ccpr@ohhr.org](mailto:ccpr@ohhr.org))
  - Countries (for LOI): Equatorial Guinea, Mauritania, Nigeria & Tajikistan
  - Countries (for LOIPR): Trinidad and Tobago

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## 1. SUMMARY

The UN Human Rights Committee published its Lists of Issues and Concluding Observations as a result of the [123<sup>rd</sup> Session](#) (2 to 27 July 2018).

**Questions** on LGBTI issues were sent to 5 out of 7 other countries (Eritrea, Gambia, Nigeria, Viet Nam, and Germany), and SOGIESC **recommendations** were made for all 5 countries reviewed (Algeria, Bahrain, Lao People's Democratic Republic, Liberia and Lithuania).

The most common reference made was to the necessity of adopting legislation against discrimination on grounds of sexual orientation and gender identity. Following that, the necessity of decriminalizing same-sex relations was also raised repeatedly. Other important remarks made by the Committee included the necessity of freeing those imprisoned due to same-sex bans, the creation of awareness-raising campaigns, recognition of same-sex couples, combating hate speech and hate crimes and providing appropriate and effective legal protection against discrimination.

Except for Lithuania with its recommendations on legal gender recognition and GI-inclusive legislations on hate crimes and hate speech, there were no stand-alone recommendations on particular populations within LGBTI abbreviation, as most of the references recognized gender identity and sexual orientation as two individual categories, but did not elaborate on consequences of that. While no specific recommendations were made by the HRCtee on intersex, a set of relevant questions was sent to Germany. Neither the situation of LGBTI women nor specific challenges faced by them have been addressed by the Committee at all.

Two **individual cases** related to LGBT were reviewed by the Committee during the session. In *Nepomnyashchiy v. Russian Federation*, the HRCtee addressed an administrative fine for “gay propaganda among minors” for displaying LGBT posters and revealed a violation of articles 19 and 26 of the ICCPR by the State party. In *Z.B. v. Hungary*, the Committee reviewed a situation of the petitioner who allegedly experienced violence based on her sister’s sexual orientation in Cameroon. However, the main issue in the case was related to deportation of the petitioner to Serbia, a country where she had arrived before moving to Hungary. The complaint was found inadmissible by the Committee.

### 1.1. Concluding Observations

During its 123<sup>rd</sup> Session, the Committee reviewed periodic reports of Algeria, Bahrain, Laos, Liberia and Lithuania.

SOGIESC recommendations were made for all five countries. Nonetheless, two of the five countries (Laos and Bahrain) did not receive Civil Society Submissions (CSS) that would address some aspect of LGBTI rights.

All constructive dialogues addressed some aspect of LGBTI rights. On the [constructive dialogues on Algeria](#), the country was questioned about the discrimination and criminalization of homosexuality, but said it does not intend to revise its legislation. During [Bahrain’s constructive dialogues](#), the country alleged that any public acts must not offend public decency or the Islamic Sharia.

According to [Laos’ constructive dialogues](#), “all citizens [...] were equal before the law, including persons with different sexual orientation and gender identity”. The experts reminded during [Liberia’s constructive dialogues](#) that LGBTI persons are stigmatized, harassed and attacked in the country. The Government alleged that the Ministry of Justice was aware of the mistreatment of LGBTI person (including by the police), but acknowledged that there had been no prosecutions for consensual same-sex relations, and recognized that more education on the issue was necessary.

Several remarks on LGBTI rights were made during [Lithuania's constructive dialogues](#), including the fact that the Inspector of Journalist Ethics in the country was restricting LGBTI persons' freedom of expression by limiting when they could broadcast content. Experts also questioned about the efforts to recognize same-sex relationships, and to ban non-consensual surgeries for intersex children.

Country	SOGIESC in previous CO*	SOGIESC in LOI**	SOGIESC in the constructive dialogues***	SOGIESC in CSS****	SOGIESC in current CO*
Algeria	Yes	Yes	Yes	Yes	Yes
Bahrain	-	Yes	Yes	-	Yes
Laos	-	Yes	Yes	-	Yes
Liberia	-	Yes	Yes	Yes	Yes
Lithuania	Yes	Yes	Yes	Yes	Yes

\*Concluding Observations

\*\*List of Issues

\*\*\*According to the press releases

\*\*\*\*Civil Society Submissions

## **Algeria**

SOGIESC issues were addressed by two CSS. The LOI mentioned the discrimination faced by LGBTI individuals and the necessity of decriminalizing consenting same-sex relations between adults.

In the [constructive dialogues on Algeria](#), the country said that “*a marriage between two men or two women was not acceptable, and it was in this context that the country had voted against the resolution on the establishment of a mandate on sexual orientation and gender identity in the Human Rights Council*”.

In the Concluding Observations, the Committee highlighted that it is of utmost importance to void the Penal law that criminalizes same-sex relations between consenting adults. Among other subjects, the Committee also said that it is necessary to combat discrimination against and stigmatization of LGBTI people.

## **Bahrain**

No SOGIESC issues were addressed by CSS. The LOI asked for information on persons prosecuted for same-sex relations under the Penal Code.

In [Bahrain's constructive dialogues](#), the country said that “*any acts that took place in public must not offend public decency laws or go against Islamic Sharia*”.

In the Concluding Observations, the Committee noted that a failure to comply with human rights cannot be grounded on political, social, religious, cultural or economic considerations within the State. Additionally, the State should prohibit discrimination on SOGI basis, and decriminalize sexual relations between consenting adults of the same sex.

## **Laos**

No SOGIESC issues were addressed by CSS. The LOI asked for information on steps taken by the country to tackle discrimination against LGBTI persons.

In [Laos' constructive dialogues](#), experts noted that “*there was no explicit prohibition of discrimination on the grounds of sexual orientation and gender identity*”, but the country highlighted that under national law there was no discrimination on the basis of sexual orientation or gender identity before the law.

In the Concluding Observations, the Committee noted that the country should adopt a comprehensive anti-discrimination law that would touch upon sexual orientation and gender identity, not only in the public but also in the private sphere.

## Liberia

Five alternative reports submitted to the Committee included topics on SOGIESC. The LOI asked for information on the extent of the prohibition of discrimination by the national legislation. The Committee also requested data on the reports of violence against LGBTI persons and on the prosecutions under the “deviate sexual intercourse” legislation.

In [Liberia’s constructive dialogues](#), experts noted the important role of the State in combating discrimination against LGBTI, which included but was not limited to voiding the prohibition of same-sex relations between consenting adults.

In the Concluding Observations, the Committee noted the necessity to adopt comprehensive anti-discriminatory legislation, carry awareness-raising campaigns, remove barriers to LGBTI persons in enjoying their rights, and ensure due investigation of hate crimes, amongst others.

## Lithuania

One report submitted to the Committee via the CSS included topics on SOGIESC. It was a comprehensive and very well-written [submission](#) by the Lithuanian Gay League.

The LOI asked for information on new developments on trying to curb discrimination and promote same-sex partnerships in the country.

In [Lithuania’s constructive dialogues](#), experts noted that the country “*ranked very low among European countries in terms of the protection*” of LGBTI persons.

In the Concluding Observations, the experts have noted the necessity to intensify efforts to eliminate discrimination, promote the full enjoyment of rights to LGBTI persons, increase the prevention to hate speech and hate crimes directed towards LGBTI people. The Committee also recommended Lithuania specifically to ensure that legal gender recognition legislation is clear and applied in accordance with the rights guaranteed under the ICCPR, including through the enactment of legislation on gender reassignment procedures. Additionally, the HRCtee made recommendations to include gender identity into the State’s legislation on hate crimes and hate speech. Notably, the SOGI recommendations were selected by the Committee for follow-up.

### **1.2.List of Issues**

SOGIESC questions were asked for 5 countries (Eritrea, Gambia, Germany, Nigeria, Viet Nam). In two cases (Gambia and Germany), LGBTI issues were also addressed in civil society submissions. The questions varied from information on the criminalization of same-sex relations, to protection from discrimination of LGBTI individuals, and stand-alone questions on intersex children.

These 5 countries will be reviewed by the Committee during [upcoming Sessions](#). Civil Society Submissions can be made to their Concluding Observations, given that deadlines are observed.

The 124<sup>th</sup> Session will take place in Geneva from 8 Oct to 2 Nov 2018 – more information about the Session can be [found here](#).

The 125<sup>th</sup> Session will take place in Geneva from 4 to 29 Mar 2019 – more information about the Session can be [found here](#).

## 2. COMPILATION OF CONCLUDING OBSERVATIONS

### Algeria – Concluding Observations – 123<sup>rd</sup> Session, 26 July 2018, 4<sup>th</sup> review

#### Lutte contre la discrimination

19. Le Comité prend note des explications fournies par la délégation selon lesquelles la Constitution garantit l'interdiction de la discrimination et soulignant le caractère noncommunautariste de la société algérienne. Tout en prenant note des articles 295 bis 1 et bis 2 du Code pénal, le Comité demeure préoccupé que la définition retenue de la discrimination n'inclut pas des motifs de discrimination tels que la langue, les croyances religieuses, l'orientation sexuelle et l'identité de genre et regrette que la législation actuelle n'offre pas aux victimes des recours civils et administratifs efficaces. Il exprime également ses préoccupations quant aux allégations faisant état d'actes de discrimination, stigmatisation et discours haineux à l'encontre des populations migrantes, demandeurs d'asile et des populations amazighes. Le Comité réitère enfin ses préoccupations quant aux actes de discriminations et stigmatisations à l'encontre des populations LGBT et déplore que l'article 338 du code pénal criminalise toujours les activités sexuelles privées entre personnes adultes et consentantes de même sexe (arts. 2, 19, 20 et 26).

**20. L'État partie devrait: (a) adopter une législation civile et administrative complète sur la discrimination incluant une définition de la discrimination, directe et indirecte, y compris dans la sphère privée, comportant une liste non-exhaustive des motifs de discriminations y compris inter alia la langue, les croyances religieuses, l'orientation sexuelle et l'identité de genre ; (b) , conformément aux article 19 et 20 du Pacte et à l'Observation générale n°34 sur la liberté d'opinion et la liberté d'expression, entreprendre tous les efforts pour lutter contre les discours de haine prononcés par des personnages publics ou personnes privées, y compris sur les réseaux sociaux et internet; (c) abroger l'article 338 du code pénal afin de décriminaliser les relations sexuelles entre adultes consentant du même sexe ; et (d) remettre en liberté toute personne se trouvant en détention sur la base de l'article 338 du code pénal.<sup>1</sup>**

### Bahrain – Concluding Observations – 123<sup>rd</sup> Session, 26 July 2018, 1<sup>st</sup> review

#### Discrimination on grounds of sexual orientation and gender identity

22. While noting information provided by the State party that no trials have been conducted on the basis of gender identity or homosexual behaviour, the Committee is concerned about the criminalization of such acts which are punishable when they take place in public spaces, according to articles 326, 346 and 350 of the Bahrain Penal Code (1956) (arts. 2, 17 and 26).

**23. While acknowledging the diversity of morality and cultures internationally, the Committee recalls that State laws and practices must always be subject to the principles of universality of human rights and of non-discrimination and that a failure to comply with the obligations**

<sup>1</sup> Unofficial translation into English:

#### **Fight against discrimination**

19. The Committee noted the explanation provided by the delegation that the Constitution guarantees the prohibition of discrimination and underlines the non-communitarian nature of the Algerian society. While noting articles 295 bis 1 and bis 2 of the Penal Code, the Committee remains concerned that the definition of discrimination does not include grounds of discrimination such as language, religious beliefs, sexual orientation and gender identity, and regrets that current legislation does not provide victims with effective civil and administrative remedies. It also expresses concern over allegations of discrimination, stigmatization and hate speech against migrant populations, asylum seekers and Amazigh populations. Lastly, the Committee reiterates its concern about acts of discrimination and stigmatization against LGBT populations and regrets that section 338 of the Criminal Code still criminalizes private sexual activity between adult and consenting persons of the same sex (arts. 20 and 26).

**20. The State party should: (a) adopt comprehensive civil and administrative anti-discrimination legislation that would include a definition of discrimination, direct and indirect, including in private sphere, and a non-exhaustive list of grounds for discrimination, including *inter alia* language, religious beliefs, sexual orientation and gender identity; (b) in accordance with articles 19 and 20 of the Covenant and General Comment No. 34 on freedom of opinion and freedom of expression, to make every effort to combat hate speech by public figures or private individuals, including on social networks and the internet; (c) repeal section 338 of the Criminal Code to decriminalize sexual relations between consenting adults of the same sex; and (d) release anyone detained on the basis of article 338 of the Criminal Code.**

contained in the Covenant cannot be justified by reference to political, social, religious, cultural or economic considerations within the State. The State party should decriminalize sexual relations between consenting adults of the same sex. The State party should also prohibit and prevent all forms of discrimination against persons based on their sexual orientation or gender identity.

## **Lao People's Democratic Republic – Concluding Observations – 123<sup>rd</sup> Session, 26 July 2018, 1<sup>st</sup> review**

### **Non-discrimination framework**

15. While noting the prohibition of discrimination in article 35 of the Constitution and in other pieces of legislation, the Committee is concerned that the current legal framework does not afford comprehensive protection against discrimination on all the grounds prohibited under the Covenant, including race, colour, sex, political or other opinion, property, birth, sexual orientation, gender identity and other status (arts. 2 and 26).

**16. The State party should take measures, including considering adopting a comprehensive anti-discrimination law, to ensure that the relevant legal framework provides adequate and effective substantive and procedural protection against all forms of discrimination, including in the private sphere, on all the prohibited grounds under the Covenant, as well as access to effective and appropriate remedies for all victims of discrimination.**

## **Liberia – Concluding Observations – 123<sup>rd</sup> Session, 26 July 2018, 1<sup>st</sup> review**

### **Non-discrimination**

16. While noting that the principle of non-discrimination is enshrined in the Constitution, the Committee regrets the lack of comprehensive legislation ensuring its effective implementation. It is particularly concerned at reports that individuals belonging to certain groups face stigmatisation and de facto discrimination, in particular persons living with HIV/AIDS, persons with psychosocial disabilities, Ebola survivors, and persons living with albinism (arts. 2 and 26).

**17. The State party should: (a) adopt comprehensive legislation against discrimination that includes a definition of all forms of discrimination and an expanded list of prohibited grounds of discrimination, including national or ethnic origin, religion, disability, sexual orientation and gender identity and any other status, and provide for effective remedies in case of violations; and, (b) carry out broad education and awareness-raising campaigns that promote equality, tolerance and respect for diversity.**

### **Discrimination based on sexual orientation and gender identity**

18. The Committee is concerned about: (a) the criminalization of same-sex sexual conduct between consenting adults and attempts to increase penalties and prohibit same-sex marriage; (b) reports that lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals are stigmatised and de facto discriminated against in the enjoyment of a range of rights on the basis of their sexual orientation and gender identity. It is also concerned that LGBTI individuals experience violence, arbitrary detention and police abuse of authority. A state of affairs that is exacerbated by underreporting of, and lack of effective investigations into, such human rights violations, whether inflicted by State or non-State actor. Moreover, the Committee expresses its concern at reports of harassment and reprisals against defenders and associations advocating for the rights of LGBTI individuals (arts. 2, 6, 7, 9, 20, 22 and 26).

**19. While acknowledging the diversity of morality and cultures internationally, the Committee recalls that State laws and practices must always conform to the principles of universality of human rights and of non-discrimination. The State party should as a matter of priority decriminalize same-sex sexual conduct between consenting adults, and explicitly reject any form of social stigmatisation, discrimination or violence, against persons based on their sexual orientation or gender identity. It should also: (a) remove any barriers in the enjoyment of rights by LGBTI individuals; (b) facilitate access to justice by victims, including by strengthening trust between LGBTI individuals and State authorities; (c) ensure investigation, prosecution and**

punishment of any act of violence motivated by the victim's sexual orientation or gender identity and ensure the systemic collection of data about such acts ; (d) guarantee in practice the security as well as the rights to freedom of expression, assembly and association to LGBTI individuals, defenders and organisations; and (e) undertake education campaigns, in consultation with LGBTI representatives and civil society organisations, on non-discrimination, inclusion and diversity.

## **Lithuania – Concluding Observations – 123<sup>rd</sup> Session, 26 July 2018, 4<sup>th</sup> review**

### **Discrimination on the grounds of sexual orientation and gender identity**

9. The Committee is concerned at the persistence of stereotypical attitudes, prejudice, hostility and discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. Recalling its previous recommendation (CCPR/C/LTU/CO/3, para. 8), the Committee remains concerned that certain legal instruments, such as the Law on the Protection of Minors against the Detrimental Effect of Public Information, may be applied, including by the Office of the Inspector of Journalist Ethics, to restrict media and other content in a manner that unduly restricts freedom of expression regarding LGBTI issues and contributes to discrimination. While noting the information provided by the State party, the Committee remains concerned at various legislative initiatives, including proposed amendments to the Code of Administrative Offences, the Constitution, and the Civil Code, which would limit the enjoyment of the rights of LGBTI persons under the Covenant. The Committee is also concerned that same sex couples are not legally recognised in the State party, including those legally married and recognised outside Lithuania. The Committee is further concerned about the lack of clarity in legislation and procedures concerning the change of civil status with respect to gender identity, in particular, the absence of legislation enabling gender reassignment procedures and change of civil status without undergoing gender reassignment surgery (arts. 2, 3, 16, 17, 19, 23 and 26).

**10. The State party should intensify its efforts to eliminate discrimination, in law and in practice, against persons on the basis of their sexual orientation or gender identity, ensure that legislation is not interpreted and applied in a discriminatory manner against LGBTI persons and refrain from adopting any legislation that would impede the full enjoyment of their Covenant rights. It should review relevant legislation to fully recognize the equality of same-sex couples, and ensure that legislation concerning the change of civil status with respect to gender identity is clear and applied in accordance with the rights guaranteed under the Covenant, including through the enactment of legislation on gender reassignment procedures.**

### **Hate speech and hate crimes**

11. While noting the legislative and other measures taken by the State party to combat hate speech and hate crimes, the Committee remains concerned about intolerance and prejudice towards vulnerable and minority groups, including Roma, Jews, migrants, refugees, asylum seekers and LGBTI persons, as well as the prevalence of hate speech and hate crimes against these groups, including on the Internet. The Committee is concerned that hate speech and hate crimes based on gender identity are not expressly prohibited in national legislation (article 170 of the Criminal Code) and at reports that the aggravating circumstance established under Article 60.1.12 of the Criminal Code has never been applied on the ground of sexual orientation. The Committee is further concerned at the low number of complaints, investigations, cases brought before domestic courts and convictions of hate crimes and the lack of information on penalties imposed. While noting the State party's statement that data collection has improved, the Committee regrets the lack of accurate official data disaggregated by social group with regard to complaints about discrimination, hate speech and hate crimes (arts. 2, 3, 17, 18, 19, 20, 26 and 27).

**12. The State party should: (a) Strengthen its efforts to combat intolerance, stereotypes prejudice and discrimination towards vulnerable and minority groups including Roma, Jews, CCPR/C/LTU/CO/4 4 migrants, refugees, asylum seekers and LGBTI persons by, inter alia, increasing training for law enforcement personnel, prosecutors and the judiciary, and conducting awareness-raising campaigns promoting sensitivity and respect for diversity among the general public; (b) Increase its efforts to prevent hate speech and hate crimes, including by effectively implementing art 170 of the Criminal Code, and ensure that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is prohibited by law, including on the ground of gender identity, in accordance with articles 19 and**

20 of the Covenant and the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression; (c) Encourage the reporting of hate crimes and hate speech and ensure that crimes are promptly identified and registered as such, including through the establishment of a comprehensive disaggregated data collection system; (d) Strengthen the investigation capacity of law enforcement officials on hate crimes and criminal hate speech, including on the Internet, and ensure all cases are systematically investigated, perpetrators held accountable with penalties commensurate with the crime and that victims have access to full reparation.

#### **D. Dissemination of information relating to the Covenant**

[...]

32. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party is requested to provide, by 27 July 2020, information on the implementation of the recommendations made by the Committee in paragraphs 10 (discrimination on the grounds of sexual orientation and gender identity), 20 (migrants and asylum seekers) and 22 (Persons deprived of liberty and detention conditions) above.

### 3. COMPILATION OF LIST OF ISSUES

#### Eritrea – List of Issues – 123<sup>rd</sup> Session, 17 August 2018, 1<sup>st</sup> review

##### **Non-discrimination and equality between men and women (arts. 2, 3 and 26)**

8. Please provide information on all measures taken in law, including comprehensive anti-discrimination legislation, and in practice to ensure protection from all forms of discrimination in the public and private sectors on all grounds protected by the Covenant, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability, sexual orientation and gender identity. In particular, please report on the efforts undertaken to ensure the security and integrity of people with HIV/AIDS. Please explain whether same-sex relationships are considered a criminal offence.

#### The Gambia – List of Issues – 123<sup>rd</sup> Session, 11 December 2017, 2<sup>nd</sup> review

##### **Non-discrimination against lesbian, gay, bisexual, transgender and intersex persons (arts. 2 and 26)**

29. Please provide updated information on the State party's efforts to decriminalize same-sex relationships by repealing sections 144–147 of the Criminal Code, 1965, as amended in 2005. Please also describe measures taken to deal with stereotypes in society with regard to homosexuality, which is largely considered to be taboo and repugnant to cultural values, and to protect lesbian, gay, bisexual, transgender and intersex individuals from arbitrary arrest and violence. Please provide an update on the measures taken to adopt a comprehensive equality and non-discrimination law that expands the grounds for protection against discrimination to include sexual orientation and gender identity.

#### Niger – List of Issues – 123<sup>rd</sup> Session, 31 July 2018, 2<sup>nd</sup> review

##### **Non-discrimination (art. 2, 7, 24, 25 et 26)**

7. Donner des informations sur les mesures aux fins d'adopter une législation complète: (a) apportant une définition et une incrimination claires de la discrimination, directe et indirecte; (b) couvrant une liste complète de motifs de discrimination, y compris l'orientation sexuelle et l'identité de genre et le handicap; et (c) fournissant aux victimes des recours efficaces. Fournir le nombre de plaintes enregistrées et poursuites menées sur le territoire de l'Etat partie pour discrimination. Indiquer les mesures prises pour combattre et prévenir les actes de discriminations, stigmatisation ou violence à l'encontre: (a) des personnes atteintes d'albinisme; (b) des personnes atteintes du VIH/sida, en particulier les femmes; (d) des enfants nés hors mariage; (e) des personnes appartenant à des minorités ethniques; et (f) des personnes appartenant à des minorités sexuelles ou de genre. A cet égard, indiquer si l'Etat partie entend revoir la terminologie utilisée dans l'article 282 du Code pénal qualifiant d'acte « contre-nature » les activités sexuelles entre personnes de même sexe. [...].<sup>2</sup>

<sup>2</sup> Unofficial translation into English:

##### **Non-discrimination (Articles 2, 7, 24, 25 and 26)**

7. Please provide information on measures to adopt comprehensive legislation that: (a) provides a clear definition and criminalization of discrimination, both direct and indirect; (b) covers a complete list of grounds of discrimination, including sexual orientation and gender identity and disability; and (c) provides victims with effective remedies. Provide the number of recorded complaints and prosecutions for discrimination conducted in the State party's territory. Indicate the measures taken to combat and prevent acts of discrimination, stigmatization or violence against: (a) persons with albinism; (b) people living with HIV/AIDS, especially women; (d) children born out of wedlock; (e) persons belonging to ethnic minorities; and (f) persons belonging to sexual or gender minorities. In this regard, please indicate whether the State party intends to review the terminology used in article 282 of the Penal Code as "unnatural" acts of sexual activity between persons of the same sex. [...].

## **Viet Nam – List of Issues – 123<sup>rd</sup> Session, 16 August 2018, 3<sup>rd</sup> review**

### **Non-discrimination and gender equality (arts. 2, 3, 20 and 26)**

3. With reference to paragraphs 36–47 of the State party's report, please indicate whether any steps have been taken to adopt comprehensive anti-discrimination legislation that, inter alia, (a) addresses discrimination in the private sphere; (b) prohibits all direct and indirect discrimination and multiple forms of discrimination; (c) contains a comprehensive list of prohibited grounds for discrimination, including race, colour, sex, political or other opinion, property, birth, sexual orientation, gender identity, health and other status; and (d) provides for effective remedies in judicial and administrative proceedings. Please provide information on the measures taken to enforce the non-discrimination provisions already existing in domestic law, in particular regarding women, persons with disabilities, people living with HIV and ethnic minorities. Please report on the steps taken towards legal recognition of same-sex couples and provide information on existing or planned legal frameworks pertaining to the rights of transgender persons that ensure they are not subject to discrimination.

## **Germany – List of Issues prior to reporting – 123<sup>rd</sup> Session, 13 August 2018, 7<sup>th</sup> review**

### **Children with variations of sex characteristics (intersex) (arts. 7, 9, 17, 24 and 26)**

13. Please respond to reports of non-emergency, invasive and irreversible surgical or other medical treatment carried out on infants and children with variations of sex characteristics (intersex), including sterilizing, feminizing, and masculinizing procedures, without fully informed, prior and free consent. Please clarify: (a) whether there are plans to ban such procedures unless they are an absolute medical necessity or are consented to by sufficiently mature intersex individuals themselves; and (b) whether any binding guidelines for medical professionals on the treatment of individuals with variations of sex characteristics have been adopted. Please report on the measures taken to address obstacles in access to justice and redress for individuals who were subjected to such surgical or other interventions as children, including statutes of limitations for filing claims.

## 4. CIVIL SOCIETY SUBMISSIONS

### Algeria

- Submission by [Amnesty International](#) for the 123<sup>rd</sup> Session (questions the existing criminalization of same-sex relations, and violence against the LGBTIQ population)
- Submission by [Fédération Euro-Méditerranéenne contre les Disparitions Forcés \(FEMED\) et Association Djazairouna des Familles des Victimes de Terrorisme et du devoir National](#) for the 123<sup>rd</sup> Session (mentions the criminalization of same-sex relations by the Penal code)

### Gambia

- Submission by [Gambia Center for Victims of Human Rights Violations](#) for the 123<sup>rd</sup> Session (mentions persecution of LGBT people)

### Germany

- Submission by [Organisation Intersex International Germany](#) for the 123<sup>rd</sup> Session (dedicated to intersex persons)
- Submission by [StopIGM.org / Zwischengeschlecht.org \(International Intersex Human Rights NGO\)](#) for the 123<sup>rd</sup> Session (dedicated to intersex persons)

### Liberia

- Submission by [Civil Society Human Rights Advocacy Platform of Liberia](#) for the 123<sup>rd</sup> Session (addresses ostracism of persons who engage in same-sex relations, and hate speech and violence against LGBTI individuals)
- Submission by [FIACAT, ACAT Liberia, WCADP](#) for the 123<sup>rd</sup> Session (addresses hate speech and violence against LGBTI individuals)
- Submission by [SAIL, TNOL, LEGAL, LIPRIDE, ALL+, AAL, TIERS, CIHR, Synergia](#) for the 123<sup>rd</sup> Session (fully dedicated to LGBT issues in Liberia, including: criminalization, arbitrary detention, violence, lack of legal recognition, institutionalized discrimination)
- Submission by [Lesbian and Gay Association of Liberia \(LEGAL\)](#) for the 123<sup>rd</sup> Session (fully dedicated to LGBT issues in Liberia. Reports on new cases of violence, and suggests questions and recommendations to the State)
- Submission by [The Carter Center](#) for the 123<sup>rd</sup> Session (section dedicated to LGBTI rights, including the questioning of current legal prohibition of same-sex relations)

### Lithuania

- Submission by [National LGBT Rights Organization LGL](#) for the 123<sup>rd</sup> Session (fully dedicated to LGBTI issues, including freedom of expression, right to life, non-discrimination, right to privacy and others)

## 5. INDIVIDUAL COMMUNICATIONS

**Nepomnyashchiy v. Russian Federation**, Communication No. 2318/2013 of 5 October 2013, views of 17 July 2018, [CCPR/C/123/D/2318/2013](#)

Subject Matter: Administrative fine for “gay propaganda among minors” for displaying LGBT posters  
Substantive Issues: Right to impart information and ideas; permissible restrictions; right to the equal protection of the law without any discrimination  
Articles of the ICCPR: 19; 26  
Views: violation of articles 19 and 26 of the ICCPR.

**Z.B. v. Hungary**, Communication No. 2768/2016 of 23 May 2016, decision of 19 July 2018, [CCPR/C/123/D/2768/2016](#)

Subject Matter: Deportation of a woman, who allegedly suffered from violence based on her sister’s orientation in Cameroon, to Serbia, where she had been raped and captured  
Substantive Issues: Risk of torture, cruel, inhuman or degrading treatment or punishment; non-refoulement; effective remedy  
Articles of the ICCPR: 2(3)(a); 7; 13.  
Decision: communication inadmissible.