

LATVIA

Most questions require a reply based on the following codification:

a. Yes, already done <input type="checkbox"/>	b. Yes, work is in progress <input type="checkbox"/>	c. We intend to work on this <input type="checkbox"/>	d. Position non determined <input type="checkbox"/>	e. No <input type="checkbox"/>
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Section I – Implementation and dissemination of the Recommendation

1. How would you assess the status of implementation of the Recommendation in your country?
Fully satisfactory ☐ Adequate ☒ Insufficient ☐ Absent ☐

Please explain your reply.

Overall, the implementation of the Recommendation in Latvia is adequate.

It should be noted that the Recommendation has been translated into Latvian, thus raising awareness of its content.

In practice, however, the number of complaints related to discrimination on grounds of sexual orientation or gender identity remains low. Furthermore, the application of existing legal provisions is not always satisfactory, leaving room for progress. Therefore, Latvia has undertaken several initiatives and is planning to implement them to further raise awareness on LGBT issues and promote tolerance towards LGBT persons. Work of the NGOs has to be commended; cooperation between the NGOs and State institutions has ensured implementation of several initiatives. In keeping good cooperation with the NGOs, a meeting was organised with the NGOs to discuss the present questionnaire, Latvia's replies and the situations of LGBTs in Latvia.

Work is still in progress to ensure full implementation of the Recommendation and close the existing gaps. For example, there is no legal recognition of same-sex partnerships; the rights and obligations of the same-sex partners are not equalized with those of heterosexual couples.

On 2 February 2011 the Ministry of Culture of the Republic of Latvia expressed its interest and willingness to take part in the Council of Europe Project "Combating Discrimination on Grounds of Sexual Orientation and Gender Identity". The Recommendation (2010)5 constitutes the main framework for the project.

As regards the legislation, Article 204¹⁷ of the Latvian Administrative Violations Code provides a fine in an amount of LVL 100 to LVL 500 (EUR 141 – EUR 708) to be imposed for a violation of the prohibition of discrimination as specified in the Latvian legislation.

According to Section 149¹ of the Criminal Law a fine not exceeding thirty times the minimum monthly wage may be imposed for discrimination based on racial or ethnic origin or for violation of prohibition of discrimination as specified in other laws, if committed repeatedly within a one year period. For a person who commits the same acts, if by such acts substantial harm is caused or they are associated with violence, fraud or threats, or where they are committed by a group of persons or a State official, or a responsible employee of an undertaking (company) or organisation, or if it is committed through automated data processing systems, the applicable

punishment is deprivation of liberty for a term not exceeding two years or community service, or a fine not exceeding fifty times the minimum monthly wage.

2. Has a review been carried out of existing legislative and other measures which could result directly or indirectly in sexual orientation or gender identity discrimination?
- a. ☐ b. ☐ c. ☒ d. ☐ e. ☐

Please explain and, if appropriate, provide examples of any such measures found:

Within the framework of the Council of Europe Project “Combating Discrimination on Grounds of Sexual Orientation and Gender Identity” the Ministry of Culture organised start-up seminar in Latvia on 15 November 2012. The work of the seminar was divided in three sessions. One of the sessions included presentations from the local LGBT NGO, academics, and government representatives who made an assessment of the situation regarding discrimination on grounds of sexual orientation and gender identity.

During the seminar attitudes of society towards LGBT persons were discussed; researchers indicated several facts reflecting the general situation. An opinion poll showed the following attitudes:

- How would you personally feel about having a homosexual as a neighbour? On a 10-point “comfort scale” respondents in Latvia are less comfortable (5.5).
- How would you react if you found out that your colleague is homosexual? – 45.1% of respondents said their relationship would not change, 28% would decrease contacts with the colleague.
- What do you think about homosexuals and homosexual relationships:
 - Both are condemnable (24,5%)
 - No objections against homosexuals, but homosexual relationships are condemnable (29,3%)
 - Neither homosexual relationships, nor homosexuals are condemnable (31, 8%)
 - N/A – 14,3%

Among youth (aged 15-24) 13,7% regard both - homosexuals and homosexual relationships are condemnable.

Are there measures in place to redress any such discrimination?

- a. ☐ b. ☒ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices:

During an international seminar “Equality, Non-discrimination, Inclusive Policy – European and International Practice” on 1 June 2012 participants discussed equal treatment and the prevention of discrimination in various environments and in the society as a whole. The seminar also looked at the case law and practice of the European Court of Human Rights and the application of domestic law in Latvia and other countries. Examples of best practices were identified as to the facilitation of tolerance in the society, especially as a result of activities by the non-governmental sector.

Within the framework of the Council of Europe Project “Combating Discrimination on Grounds of Sexual Orientation and Gender Identity”, on 15 November 2012 the Ministry of Culture organised a start-up seminar. One of the sessions of the seminar included workshop for representatives of ministries and State institutions in a form of a roundtable discussion answering the following questions: how to improve situation of LGBT and other minority groups; what improvements are

needed in policy planning documents and legislation; what is the vision for a better public administration for LGBT persons.

As regards legislation, Article 91 of the Constitution of the Republic of Latvia states that all human beings in Latvia shall be equal before the law and the courts and human rights shall be realised without discrimination of any kind.

Prohibition of discrimination on any ground is specifically defined in only three areas: labour law, social security law and law on the execution of sentences.

3. Have legislative and other measures against discrimination on grounds of sexual orientation or gender identity been adopted and implemented since the adoption of CM Recommendation 2010(5) (including the possible establishment of national action plans, the inclusion of the Recommendation in existing plans, or the creation of cross-sectoral working groups for its implementation)?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If appropriate, please provide examples of measures adopted or in preparation.

The following legislative and policy planning documents have been adopted since the adoption of the Recommendation 2010(5):

- the Out-of-court Debt Recovery Law in Article 10 states that in communication with the debtor it is prohibited to use aggressive forms of communication, including to threat and take action that infringes the person's gender affiliation and sexual orientation;
- the Law on the Prohibition of Discrimination against Physical Persons – Economic Activities Performers contains prohibition of differential treatment of individuals performing or carrying out economic activities; it sets out seven prohibited grounds of discrimination, namely, sex, race, ethnicity, disability, age, religion and sexual orientation;
- amendments to the Law on Consumer Rights' Protection, adopted by the Government on 19 June 2012, provide supplement to the list of prohibited grounds of discrimination in the Section "Prohibition of differential treatment" of the Law. Thereby, not only the person's sex, race, ethnic origin and disability, but also age, religion and sexual orientation are to be listed as prohibited discrimination grounds. The draft law is still to be discussed in the Parliament;
- Guidelines on National Identity, Civil Society and Integration Policy for 2012–2018, adopted by the Government on 20 October 2011 define the integration policy strategy; the Action Plan of the Guidelines, in the Section "Promotion of inclusion of socially excluded groups into the society and preventing discrimination", envisages activities targeted to combat discrimination, e.g., promotion of intercultural dialogue skills in the field of education, development of non-discrimination monitoring and evaluation system, public information measures and training of professionals of various supporting professions etc.

Latvia will continue to take measures, including training, seminars etc., to improve the LGBT situation.

4. Are there measures in place to collect and analyse relevant data on discrimination on grounds of sexual orientation?

a. ☐ b. ☐ c. ☒ d. ☐ e. ☐

Are there measures in place to collect and analyse relevant data on discrimination on grounds of gender identity?

a. ☐ b. ☐ c. ☒ d. ☐ e. ☐

Are there measures in place to collect and analyse relevant data on hate crimes and hate-oriented incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

a. ☐ b. ☐ c. ☒ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices:

The Action Plan of the Guidelines on National Identity, Civil Society and Integration Policy for 2012–2018, in the Section “To promote inclusion of socially excluded groups into the society and to prevent discrimination”, envisages activities targeted at combating discrimination, including development of non-discrimination monitoring and evaluation system.

Within the framework of the Council of Europe Project “Combating Discrimination on Grounds of Sexual Orientation and Gender Identity” the Ministry of Culture together with the NGOs is planning to organise training workshops for social workers, journalists and the police, as well as a workshop on data collection regarding discrimination on grounds of sexual orientation and gender identity.

Data on hate crimes and hate-oriented incidents can be collected from the Court’s Information System. However, at the moment this data is not disaggregated depending on the motive for the perpetrator.

5. Do effective legal remedies for victims of sexual orientation or gender identity discrimination exist (including sanctions for infringements and adequate reparation for victims)?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If so, are there measures in place to raise awareness and facilitate access of victims to such remedies?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Article 92 of the Constitution states that, in the event of a groundless offense of rights everyone has the right to a corresponding compensation. The Constitutional Court has further interpreted this provision and stated that the right to receive compensation does not depend on the existence of *lex specialis* granting a right to receive compensation for a particular breach of rights. This approach has been followed by administrative courts, where Article 92 of the Constitution has been applied directly as a legal basis for granting a compensation for non-pecuniary damage.

Even though all the laws do not contain provisions regarding the right to receive compensation in the case of breach of the article on prohibition of discrimination, this right is provided for in general laws. Article 1635 of the Civil Law states that every delict, that is, every wrongful act *per*

se, as a result of which harm has been caused (also moral injury), shall give the person who suffered the harm therefrom the right to claim satisfaction from the infringer, insofar as he or she may be held at fault for such act. The term 'act' is used within the widest meaning, including not only acts, but also the failure to act, that is, inaction. By moral injury is understood physical or mental suffering which is caused as a result of unlawful acts committed to the non-financial rights or non-financial benefit delicts of the person who suffered the harm. The amount of compensation for moral injury shall be determined by a court at its own discretion, taking into account the seriousness and the consequences of the moral injury.

Article 22 of the Criminal Procedure Law provides that a person upon whom harm has been inflicted by a criminal offence shall, taking into account the moral injury, physical suffering, and financial loss thereof, be guaranteed procedural opportunities to request and receive moral and financial compensation.

The Law on State Compensation to Victims ensures that a person who has been recognized as a victim in a criminal proceeding has the right to receive State compensation.

Article 92 of the Administrative Procedure Law provides that everyone is entitled to claim due compensation for financial loss or personal harm, including moral injury, which has been caused him or her by an administrative act or an actual action of an institution.

6. Which obstacles, if any, have been encountered in the implementation of the Recommendation?

The prejudices existing in the society and historically formed views on marriage, family and its values can be seen as a barrier to the successful implementation of the Recommendation. Furthermore, it has to be admitted that legislative provisions are not always applied and interpreted in a manner originally envisaged by the legislator, and taking into account the most recent developments in international and human rights law.

7. Has the Recommendation, including its Appendix, been translated in all your national languages?
a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

8. Which steps have been taken to ensure dissemination of the Recommendation and its Appendix as widely as possible?

One of the measures to disseminate information on the provisions of the Recommendation was the start-up seminar of the Council of Europe Project "Combating Discrimination on Grounds of Sexual Orientation and Gender Identity" held on 15 November 2012 which brought together representatives of many State institutions dealing with non-discrimination issues in Latvia.

Section II – Implementation of the specific provisions in the Appendix

I. Right to life, security and protection from violence

9. Are there measures in place to ensure an effective, prompt and impartial investigation into alleged cases of crimes and other incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?
a. ☐ b. ☒ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

As regards the legislation, Article 8 of the Criminal Procedure Law ensures the principle of equality by stating that the Law shall determine a uniform procedure for all persons, irrespective of their origin, social and financial situation, employment, citizenship, race, nationality, attitudes towards religion, sex, education, language, place of residence, and other conditions, involved in criminal proceedings. Article 6 of the Law stipulates that the official who is authorised to pursue criminal proceedings has a duty, within his or her competence, to initiate criminal proceedings and to lead such proceedings to a fair regulation in accordance with the provisions of the Criminal Law in each case where the cause and ground for initiating criminal proceedings have become known.

Within the framework of the project “Combating Discrimination on Grounds of Sexual Orientation and Gender Identity” the Council of Europe organised a seminar “Police Training relating to LGBT Issues” on 14-15 December 2012. During the seminar State representatives, NGOs and lecturers from police academies gave presentations about best practice in police training from their own perspective. One of the aims was to ensure the trust between police and the LGBT community.

10. Are there measures in place to ensure that a bias motive related to sexual orientation may be taken into account as an aggravating circumstance?

a. ☐ b. ☐ c. ☒ d. ☐ e. ☐

Are there measures in place to ensure that a bias motive related to gender identity may be taken into account as an aggravating circumstance?

a. ☐ b. ☐ c. ☒ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Discussions are taking place on the necessity to expand the list of aggravating circumstances in Article 48 of the Criminal Law.

11. Are appropriate measures taken to ensure that victims and witnesses of sexual orientation- or gender identity-related hate crimes and incidents are encouraged to report them?

a. ☐ b. ☒ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

As regards the procedure, Article 369 of the Criminal Procedure Law states that the basis for initiation of a criminal proceeding is an application to an investigating institution, Prosecutor’s Office, or the court, containing information on a possible criminal offence or obtainment of such information from an institution in charge of pursuing criminal proceedings. The information may be submitted by the victim of a criminal offence, as well as by any other physical or legal person not being the direct victim.

As mentioned above (response to the question no.10; also see response to question no.12), a seminar on police training was organised in order to strengthen the trust between the law enforcement agencies and LGBT community, which, in turn, would encourage proper reporting on hate crimes and incidents.

12. Do training programmes and procedures exist to ensure that the police, judiciary and prison officials possess the knowledge and skills to identify such crimes and incidents and provide victims and witnesses with adequate assistance and support?

a. ☐ b. ☒ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

From 2010 the State Police College together with the NGO "Mozaika" annually organizes training for police officers on issues of discrimination on different grounds (including sexual orientation and gender identity). Each training session gathers together about 55 police officers of different rank. After the training lecturers make an overall assessment of the program and the training process.

Human rights' training to judges is provided on a regular basis. In addition, annual analysis of the case law of the European Court of Human rights and the Court of Justice of the European Union is made and presented to judges.

The State Police and the State Police College have developed close cooperation with NGOs to raise awareness of the police on identification of hate crimes and preventive measures. In 2012 reacting to an NGO initiative the State Police College organised two seminars on Identification and Prevention of Hate Crimes. 44 officers took part in the seminars which included the following issues:

- the concept of a hate crime; delimitation of hate crimes from other crimes,
- criminal characterisation of hate crimes and qualification problems,
- characterisation and motives of persons committing hate crimes,
- psychological consequences of hate crimes; assistance measures,
- preventive measures in combating hate crimes,
- the situation of hate crimes in Latvia; discussion with the NGOs.

On 24 October 2012, the Riga Graduate School of Law in cooperation with several ministries organised a Conference „Towards Inclusive Society without Hatred: Experience, Achievements and Challenges in Latvia”, which was opened by the President of Latvia. The conference was aimed at media representatives, journalists, politicians, members of the judiciary and education experts. The objective of the conference was to analyse experience, achievements and challenges in Latvia on its way towards inclusive and tolerant society in the context of hate speech, and to strengthen capacity of the state to protect people from discrimination and hate. The situation in Latvia, inter alia, was analysed in a context of international standards and experience. The conference speakers addressed such aspects as the role of mass media in preventing hate crime, ways of improving the work of courts and law enforcement institutions in fighting hate crimes, and empowering the education system to foster tolerance and prevent discrimination, hate crime and political radicalism. Several speakers indicated a necessity to review the existing legislation to bring it into conformity with recent international human rights provisions.

13. Are there specific measures in place to ensure the safety and dignity of lesbian, gay, bisexual and transgender persons in prison or in other ways deprived of their liberty, in accordance with paragraph 4 of the Appendix to the Recommendation?

a. ☐ b. ☐ c. ☒ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

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14. Have appropriate measures been taken to combat all forms of “hate speech” against lesbian, gay, bisexual or transgender persons, in accordance with Article 10 of the European Convention on Human Rights and with paragraph 6 of the Appendix to the Recommendation?

a. ☐ b. ☒ c. ☐ d. ☐ e. ☐

If so, have specific measures been taken to raise awareness of public authorities/ institutions of their responsibility to refrain from statements which may reasonably be understood as legitimising hatred or discrimination against lesbian, gay, bisexual or transgender persons?

- a. ☐ b. ☐ c. ☒ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

As regards legislation, Articles 100 and 116 of the Constitution of Latvia establish the right to freedom of expression, which includes freedom to acquire, retain, and disseminate information, to express views; this right may be limited in the cases provided for by law, to protect other human rights, democratic government, public safety, welfare and morals. Article 7 of the Law on the Press and other Mass Media states that mass media shall be prohibited to publish information promoting violence and the overthrow of the prevailing order, advocates war, cruelty, racial, national or religious superiority and intolerance, and incites to the commission of other crimes; it is prohibited to publish information containing defamation or insulting the honour and dignity of a physical or legal person.

II. Freedom of association

15. Are there measures in place to ensure that freedom of association (including access to public funding available for non-governmental organisations) can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If any, please provide examples of limitations or exceptions to the guarantees set out in Paragraphs 9 and 10 of the appendix to the Recommendation and indicate whether any measure to review or lift such limitations or exceptions is in preparation:

As regards legislation, the Law on Associations and Foundations, the Law on Trade Unions, the Law Political Parties provide for the right of freedom of association, regardless of a person's gender identity or sexual orientation. The right of association (official register of a legal person) may be limited if the association, its aims or actions are prohibited by law; there is no prohibition of freedom of association based on sexual orientation or gender identity. There is no provision regarding access to public funding contained in legislation, however, there are no restrictions in this regard either, including for organizations working in this area.

Latvia does not have a single registry of NGOS, which would classify the organisations according to their area of activities.

16. Are there specific measures in place to effectively protect defenders of human rights of lesbian, gay, bisexual and transgender persons against hostility and aggression, including when allegedly committed by state agents, in accordance with the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities?

- a. ☐ b. ☐ c. ☒ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

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17. Have measures been taken to ensure that non-governmental organisations defending the of human rights of lesbian, gay, bisexual and transgender persons are appropriately consulted on the adoption and implementation of measures that may have an impact on the human rights of these persons?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There is a general provision contained in several laws and regulations (e.g. the Law on Development of Planning System, Regulation No.970 of the Cabinet of Ministers of 25 August 2009, on the Procedure for Public Participation in the Process of Development Planning, Instruction No.19 of the Cabinet of Ministers of 15 December 2009, on Initial Impact Assessment Procedure of Draft Laws) for public participation and involvement of interested groups in the process of drafting legislation.

During the process of organising the start-up seminar of the Council of Europe Project “Combating Discrimination on Grounds of Sexual Orientation and Gender Identity” the Ministry of Culture invited the relevant stakeholders working with the issues of human rights of LGBT persons to take part in that preparation process.

Furthermore, NGOs were consulted when drafting replies to this particular questionnaire.

III. Freedom of expression and peaceful assembly

18. Are there measures in place to ensure that freedom of expression, including freedom to receive and impart information on subjects dealing with sexual orientation or gender identity, can be enjoyed without discrimination on grounds of sexual orientation or gender identity?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Are there measures in place to ensure that freedom of peaceful assembly can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If specific limitations or exceptions regarding such freedoms are in place, please provide examples and indicate whether any measure to review or lift such measures is in preparation:

Article 100 of the Constitution of Latvia guarantees the right to freedom of expression, which includes freedom to acquire, retain, and disseminate information, to express views. The Law on the Press and other Mass Media provides for independence of the press, namely, any person, group of persons, authorities of State institutions and all types of organisations and undertakings in the Republic of Latvia have the right to freely express their views and opinions, disseminate announcements in the press and other mass media, and by such means receive information on societal life or any issue they are interested in.

The Law on Meetings, Street Processions and Pickets guarantees the right to freedom of peaceful assembly in meetings, marches and pickets. Any restriction to this right is examined by court. There have been cases where courts have lifted decisions of the Riga municipality prohibiting holding prides.

19. Do law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of lesbian, gay, bisexual and transgender persons?

- a. ☐ b. ☒ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Baltic Pride 2012 took place in Riga from 30 May to 2 June 2012. The Baltic Pride was a series of various activities and events including the pride march, international seminar "Equality, Non-Discrimination and Inclusive Policy –European and International Practice", various workshops and cultural events. The Pride was held without any major incidents that might have caused harm, violate or in other way disturb the march.

The State Police ensures public order during pride. However, NGOs have stated that during pride some incidents have taken place without appropriate response from law enforcement officers.

IV. Right to respect for private and family life

20. Have measures been taken to ensure that criminal law provisions which, because of their wording or scope, may lead to a discriminatory application with respect to sexual orientation or gender identity are either repealed, amended or applied in a manner which is compatible with the principle of non-discrimination?

- a. ☐ b. ☐ c. ☒ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Criminal Law does not contain provisions that may lead to a discriminatory application with respect to sexual orientation or gender identity. At the same time some of the terminology contained in the Criminal Law may be regarded as contributing to stigmatisation.

21. Are there measures in place to ensure that personal data referring to a person's sexual orientation or gender identity are not collected, stored or otherwise used, except where this is necessary for the performance of specific, lawful and legitimate purposes, and that existing records that do not comply with this principle are destroyed?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please provide examples of exceptions to this principle, if any:

The Latvian legislation provides administrative as well as criminal liability for violations of provisions relating to personal data processing.

The Law on Personal Data Protection strictly regulates the processing of personal data. Information regarding a person's health or sexual life is considered to be sensitive personal data. The Data State Inspection is the responsible authority in the field and is entitled to claim false or demand deletion or destruction of unlawfully obtained data.

Article 11 of the Law on Personal Data Protection states that processing of sensitive personal data is prohibited, except in cases where:

- 1) the data subject has given his or her written consent for the processing of his or her sensitive personal data;**
- 2) special processing of personal data, without requesting the consent of the data subject, is provided for by regulatory enactments, which regulate legal relations regarding employment, and such regulatory enactments guarantee the protection of personal data;**

- 3) personal data processing is necessary to protect the life and health of the data subject or another person, and the data subject is not legally or physically able to express his or her consent;
- 4) personal data processing is necessary to achieve lawful, non-commercial objectives of public organisations and their associations, if such data processing is only related to the members of these organisations or their associations and the personal data are not transferred to third parties;
- 5) personal data processing is necessary for the purposes of medical treatment, the provision of health care services or the administration thereof and the distribution of means of medical treatment;
- 6) the processing concerns such personal data which is necessary for the protection of lawful rights and interests of physical or legal persons in court proceedings;
- 7) personal data processing is necessary for the provision of social assistance and it is performed by the provider of social assistance services;
- 8) personal data processing is necessary for the development of Latvian national documentary heritage and it is performed by the State archives and an accredited private archive;
- 9) personal data processing is necessary for statistical research, which is performed by the Central Statistics Bureau;
- 10) the processing relates to such personal data, which the data subject has him or herself made public;
- 11) personal data processing is necessary in fulfilling State administration functions or developing State information systems as prescribed by law;
- 12) personal data processing is necessary for the protection of the rights or lawful interests of physical or legal persons when applying for reimbursement in accordance with the insurance agreement;
- 13) in accordance with the Law on Patient's Rights patient's data as recorded in medical documentation is used in researches.

22. Are appropriate measures available to guarantee full legal recognition of a person's gender reassignment in all areas of life in accordance with the provisions of paragraph 21 of the appendix to the Recommendation?

a. ☐ b. ☒ c. ☐ d. ☐ e. ☐

Have prior requirements for legal recognition of a gender reassignment been reviewed in order to remove any abusive requirements?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☒

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

As regards legislation, Articles 23 and 37 of the Law on Registration of Civil Registration Record provide that marriage registration record and birth registration record is supplemented with information on gender reassignment. Information on gender reassignment in the civil register is updated about the person him/herself, his/her parents, or the spouse.

The Department of Administrative Cases of the Supreme Court Senate has adopted a judgement which established that the State has an obligation to provide adequate procedure for recognition of a person's gender reassignment according to gender characteristics.

23. Once gender reassignment has been completed and legally recognised, is the right of a transgender person to marry a person of the sex opposite to their reassigned sex effectively guaranteed?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

According to the Article 110 of the Constitution of Latvia marriage can be established only between a man and a woman. Therefore, if gender reassignment is legally recognised there are no obstacles for this person to enter into marriage with person of an opposite gender.

24. Where national legislation recognises registered same-sex partnerships, are their legal status, rights and obligations equivalent to those of heterosexual couples in a comparable situation?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☐

If national legislation does not recognise nor confer rights to registered same-sex partnerships and unmarried couples, has the possibility been considered to provide same-sex couples with legal or other means to address the practical problems related to this fact in their lives?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☒

Please provide examples:

There has been a discussion on the possibility to establish legal framework for registration of same-sex partnerships; however, such a regulation has not yet been adopted.

25. Are there measures in place to ensure that decisions regarding parental responsibility and adoption of a child are taken primarily in the child's best interest, as well as without discrimination based on sexual orientation or gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Civil Law contains several provisions regarding adoption of a child.
First of all, the adoption of a minor child is permitted if it is in the interests of the child. A minor child may be adopted if prior to the approval of the adoption he or she has been in the care and supervision of the adopter (up to the period of six months) and the mutual suitability of the child and adopter has been determined, as well as is there is a basis for considering that as a result of the adoption between the adopter and the adoptee will establish a true child and parent relationship.

A child may be adopted by spouses or by a single individual. Persons who are not married to each other may not adopt the same child. No distinction, however, is made between unmarried homosexual and heterosexual persons.

Consent of all parties to the adoption (the adopter; the adoptee if he or she has reached the age of twelve years; the parents of a minor adoptee if they have not had custody rights removed, or a guardian) is compulsory. It is necessary that all parties to the adoption give their consent to the adoption.

For the adoption of a child, a decision by the Custody Court that such an adoption is in the interests of the child is required. In taking such a decision the Custody Court ascertains the views of the adoptee, if he or she is able to formulate such, as well as takes into account information

regarding the adopter, including his or her personality, , material circumstances, household circumstances, capacity to raise a child, as well as information regarding the adoptee, including his or her personality, religious faith if there is such, health and ancestry.

The Civil Law does not recognise sexual orientation as a ground for prohibiting adoption . According to the Regulations of the Cabinet of Ministers on Procedure of Adoption, the Custody Court examines the family wishing to adopt a child, to see if the family would be suitable for placement of a child.

Article 6 of the Law on Protection of the Rights of the Child states that in all measures with regard to a child, irrespective of whether they are carried out by State or local government institutions, public organisations or other physical or legal persons, as well as the courts and other law enforcement institutions, the ensuring of the rights and interests of the child shall take priority.

V. Employment

26. Does legislation prohibit discrimination in employment in the public and private sector on grounds of sexual orientation?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Does legislation prohibit discrimination in employment in the public and private sector on grounds of gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If so, are there measures in place concerning in particular:

i) Access to employment

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

ii) Promotion, dismissals, pay and other working conditions

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

iii) Prevention and punishment of harassment

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

iv) Protection of privacy of transgender persons

(in accordance with paragraph 30 of the Appendix to the Recommendation)

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Labour Law prohibits discrimination based on gender and sexual orientation in public as well as in private sector (also in relation to questions i), ii), iii)).

The legislation does not contain explicit prohibition of discrimination on grounds of gender identity; however, according to the Labour Law discrimination on any grounds is prohibited.

The Labour Law states that everyone has an equal right to work, to fair, safe and wealthy working conditions, as well as to fair remuneration. These rights shall be ensured without direct or indirect discrimination. In accordance with the Law harassment of a person also is deemed as discrimination and is prohibited by law; administrative fine may be imposed for harassment.

Questions regarding the person's gender (including whether the person is a transgender person or not) during establishment of working relations and during the employment period are not acceptable; also other questions that do not directly impact performance of duties or are not related to suitability of the employee are not acceptable.

All information about the employee or job applicant may be disclosed to a third party only with the consent of the person concerned.

The Law of Self-employed Persons explicitly lists sexual orientation as a prohibited ground for discrimination.

VI. Education

27. Are there appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, taking into due account the over-riding interests of the child and the rights of parents regarding education of their children?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If so, are there measures in place concerning in particular:

- i) Anti-discrimination training or support and teaching aids

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

- ii) Information, protection and support for pupils and students

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

- iii) Objective information on sexual orientation and gender identity in school curricula?

a. ☐ b. ☒ c. ☐ d. ☐ e. ☐

- iv) School equality and safety policies and action plan

a. ☐ b. ☒ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Gender identity issues are included in various general education subjects, such as "Social Science", "Ethics", "Christian Studies", "Natural Sciences", "Biology", "Health Studies", "Philosophy" and in the content of sample subject program in accordance with the Cabinet of Ministers' Regulations No.1027 of 19 December 2006 on the State Basic Education Standard and Basic Education Subject Standards and the Cabinet of Ministers' Regulations No.715 of 2 September 2008 on the State General Secondary Education Standard and General Secondary Education Subject Standards. The basic requirements of several subjects determine the issues pupils need to acquire until grade 6, grade 9 or grade 12.

Basic rights are set out in Chapter VIII of the Constitution of Latvia, including the right to education to everyone and the responsibility of the State to ensure that everyone acquires primary and secondary education free of charge; primary education is compulsory.

Section 3.¹ of the Law on Education establishes prohibition of differential treatment. The Law states that citizens of Latvia, non-citizens of Latvia, citizens of the European Union, European Economic Area and Swiss Confederation, permanent residents of the European Community, who have a valid residence permit in the Republic of Latvia, stateless persons, who have a valid travel document of the stateless person issued in the Republic of Latvia, third-country nationals or

stateless persons, who have a valid residence permit in the Republic of Latvia, refugees or persons, who have acquired alternative status, and persons, who have received temporary protection in the Republic of Latvia have the right to acquire education regardless of the material and social status, race, nationality, ethnic belonging, gender, religious and political affiliation, state of health, occupation and place of residence. Differential treatment towards a person based on the aforementioned grounds can only be permitted, if it is objectively substantiated with a legal purpose, the means selected for the achievement of which are proportionate. The Section 3.¹ of the Law on Education also lists measures to be taken, when there is suspicion of differential treatment.

VII. Health

28. Are there appropriate measures in place to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, in accordance with the provisions of Paragraph 33 of the Appendix to the Recommendation?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

According to Article 111 of the Constitution, the State protects human health and guarantees a basic level of medical assistance for everyone.

Section 16 of the Medical Treatment Law states that everyone has the right to receive emergency medical care in accordance with procedures prescribed by the Cabinet of Ministers.

Section 3 of the Law On the Rights of Patients provides that in ensuring the rights of patients, differential treatment based on a person's race, ethnic origin, skin colour, gender, age, disability, state of health, religious, political or other persuasion, national or social origin, property or marital status or other circumstances is prohibited. Differential treatment includes direct or indirect discrimination of a person, infringement of a person or an implication to discriminate him or her.

The Public Health Strategy for 2011-2017 (adopted by the Cabinet of Ministers Order No.504 of 5 October 2011) is a medium term policy planning document which has been developed and adopted in order to continue implementation of the public health policy. The aim of a public health policy is to prolong healthy life years of the Latvian population and to prevent untimely deaths, while maintaining, improving and restoring health. To reach the main aim of the public health policy, the objective to eliminate injustice in the field of health by implementing measures to ensure equal health opportunities for all Latvian inhabitants has been set. One of the main points of progress for reaching the set aim is by ensuring partnership and inter-sector cooperation, and promoting equal health opportunities for all inhabitants.

Program for Limiting the Spread of HIV for 2009–2013 is elaborated and adopted by the Cabinet of Ministers to limit the spread of HIV and to reduce new HIV cases in total and among main risk groups.

Guidelines for Health Promotion in Municipalities were elaborated and adopted (by the Order of the Ministry of Health No.243 of 29 December 2011) to provide municipalities with science-based information so that they can realize health promotion. These guidelines provide events and activities (both educational and practical activities, etc.) that municipalities should carry out in their territories to tackle health promotion issues in four main population groups – children and adolescents, working age population, young families and elderly.

29. Has homosexuality been removed from the national classification of diseases?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Since a national classification of diseases has not been developed in Latvia, the International Classification of Diseases is used.

30. Are there measures in place to ensure that transgender persons have effective access to appropriate gender reassignment services?

- a. ☐ b. ☐ c. ☐ d. ☐ e. ☒

If there are limitations to the costs covered by health insurance for gender reassignment, please explain:

Gender reassignment services are not covered from the State budget. According to the NGOs, financial implications and uncertainty related to gender reassignment may be regarded as obstacles preventing persons from actually undergoing reassignment.

VIII. Housing

31. Are measures taken to ensure access to adequate housing can be effectively and equally enjoyed by all persons, without discrimination on grounds of sexual orientation or gender identity, that protection is provided against discriminatory evictions, and that equal rights are guaranteed in respect of ownership of land and other property,?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The legislation does not allow any discrimination based on sexual orientation or gender identity with regard to ownership or possession of land and other property, eviction and other issues concerned with housing.

32. With respect to the risk of homelessness faced by lesbian, gay, bisexual and transgender persons, in particular young persons and children, are measures taken to ensure that the relevant social services are provided without discrimination on grounds of sexual orientation or gender identity?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

According to the legislation the receipt of social services is not subjected to sexual orientation or gender identity.

IX. Sports

33. Have measures (including awareness-raising measures) been taken to tackle discrimination on grounds of sexual orientation or gender identity (including the use of discriminatory insults) in sports and in connection with sports events?

- a. ☐ b. ☐ c. ☒ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There have been no cases (no legal proceedings or other information on any forms of abuse) where discrimination based on sexual orientation or gender was identified in sports. Therefore, there has been no need to tackle discrimination on ground of sexual orientation or gender identity in sports. At the same time, Section 3 of the Law on Sports states that among the basic principles to be observed in the field of sport is also the principle of equality, which provides that every person has a right to engage in sport.

X. Right to seek asylum

34. In cases where your country has an international obligation in this respect, may a well-founded fear of persecution based on sexual orientation or gender identity be recognised as a valid ground for the granting of refugee status and asylum under your national law?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

According to the Asylum Law (section 22) persecution based on sexual orientation or gender identity is considered as a valid ground for the granting of refugee status and asylum.

35. Does your country ensure that asylum seekers are not sent to a country where their life or freedom would be threatened because of their sexual orientation or gender identity?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

According to the national legislation asylum seekers are not sent back to the country in cases when their life is under threats.

XI. National Human Rights Structures

36. Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of sexual orientation?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of gender identity?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If so please explain and indicate in particular, if appropriate, what possibilities of intervention are included in their mandate, including in particular with respect to discrimination on multiple grounds:

The mandate of the Ombudsman of Latvia includes the right to investigate discrimination cases on all grounds prescribed by law. Section 11 *Functions of the Ombudsman* of the Law on the Ombudsman as one of the functions of the Ombudsman determines to promote the compliance with the principles of equal treatment and prevention of any kind of discrimination. Section 13 *Rights of the Ombudsman* provides that upon termination of a verification procedure and establishment of a violation, the Ombudsman has a right to apply to a court in such civil cases, where the nature of the action is related to a violation of the prohibition of differential treatment.

XII. Discrimination on multiple grounds

37. Are there measures in place to ensure that the provisions of national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Section III - Follow-up

38. Which measures by the Council of Europe would you recommend to ensure that member states are guided in their national legislation and practice by the principles set out in the Recommendation and in its Appendix ?

To continue cooperation with the Council of Europe, including under the project “Combating Discrimination on Grounds of Sexual Orientation and Gender Identity”, to promote training, awareness raising etc.

39. Should the Council of Europe continue examining periodically the implementation of this Recommendation? If so, should such examination in future concentrate on specific issues, and which specific issues would you recommend examining in that case?

Yes.

40. Are there any issues on which the Recommendation and its Appendix should be revised or completed? If so, please indicate them.

No.