

"the former Yugoslav Republic of Macedonia"

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.

The contents of the Recommendation is being presented at seminars and training sessions organized for the purpose of more effective implementation of the Law on Prevention and Protection against Discrimination.

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:

As part of the preparatory activities for the development of the **Law on Prevention and Protection against Discrimination**, an analysis of the existing legal regulations was carried out.

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:

Gender as grounds for protection against discrimination is contained in Article 3 of the **Law on Prevention and Protection against Discrimination**. Sexual orientation is not explicitly mentioned but is covered with the wording of the same Article in the following manner: "and any other grounds provided by law or by a ratified international document".

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 Republic of Macedonia has a number of laws containing provisions referring (one way or another) to (non) discrimination. These laws are in different areas, and can be divided into two groups. The first group consists of the laws which forbid discrimination in concrete areas, specifically: the Law on Labour Relations, the Law on Social Protection, the Law on Health

Protection, the Law on Health Insurance, the Law on Mental Health, the Law on Protection of Patients' Rights, the Law on Primary Education, the Law on Secondary Education, the Law on High Education, the Law on Volunteering, the Law on Public Health, the Law on Courts, the Law on Equal Opportunities for Women and Men, the Law on the Use of Languages, the Law on the Use of the Flags of the Communities in the Republic of Macedonia, etc. However, what is of extreme importance is that the Law on Prevention and Protection against Discrimination complements the legal solutions referring to prevention and protection against discrimination.

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:

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:

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

7. Has the Recommendation, including its Appendix, been translated in all your national languages?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Translation was provided by an NGO.

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

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:

Under the Criminal Code, there are measures in place to ensure an effective, prompt and impartial investigation into alleged cases of crimes and other incidents, but they are not specifically designed for crimes and incidents where sexual orientation or gender identity of the victim may have constituted a motive for the perpetrator.

The same applies for the Law on the Protection against Discrimination.

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. ☐

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

Article 39 of the Criminal Code contains general rules for determination of sentences. The general rule of paragraph 2 of this Article obliges the court to take into account all circumstances that may affect the sentence either to be milder or more severe (alleviating or aggravating circumstances) and in particular the level of criminal liability, motivation behind the act, circumstances of the act, previous life of the perpetrator, his/her personal situation and conduct following the perpetrated act, as well as other circumstances related to the personality of the perpetrator. The Law does not define alleviating or aggravating circumstances but leaves the court to make such an assessment. Special mention of certain alleviating or aggravating circumstances does not preclude the court from taking into consideration other circumstances including sexual orientation and gender identity.

With the amendments to the Criminal Code of September 2009, a new paragraph 5 is added to this Article stating "When the determination of the sentence is being done, it will be taken into account whether the crime has been committed against a person or a group of persons, directly or indirectly, because of his/her or their ethnic and social origin, political or religious belief, property or social status, gender, race and colour of skin.

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:

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:

The Academy for training of judges and prosecutors organizes training on non-discrimination on all grounds, including sexual orientation and gender identity.

At the Faculty of Security – Skopje, in the framework of the course Police and Human Rights, particular attention is being paid to vulnerable groups, including the discrimination on grounds of sexual orientation. The Faculty organized a series of workshops with NGOs on the relevant issues. In 2012 a new optional course was introduced entitled Non-discrimination and vulnerable groups, focussing among other issues on the protection against discrimination based on sexual orientation.

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:

No special measures have been put in place for protection against assault, rape and other forms of sexual violence of LGBT persons in prison or in other ways deprived of liberty. These persons enjoy the same legal protection as other persons deprived of liberty. Last year in one of the prisons of Macedonia a case of rape of a homosexual was reported to the competent prison authorities. The criminal charges were brought against the perpetrators and the criminal proceedings is underway.

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:

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:

Many associations of citizens advocating the rights of LGBT have been registered in the Republic of Macedonia. Sexual orientation and gender identity do not constitute grounds for restricting freedom of association under the Law on Associations of Citizens and Foundations.

Public funding is available to all NGOs under equal conditions.

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:

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:

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:

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:

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 Code does not criminalize same-sex sexual acts. The age of consent is the same for heterosexual and homosexual relations. There are no criminal law provisions which may lead to a discriminatory application with respect to sexual orientation or gender identity.

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:

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:

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:

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:

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:

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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:

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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 plans

- a. ☐ b. ☐ c. ☐ d. ☐ e. ☐

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

"Education for life skills" for secondary school students deals with the issues of human rights and non-discrimination on various grounds, including sexual orientation and gender identity. The teacher's training manual has been developed.

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:

The Law on Rights of Patients stipulates that the protection of rights of patients is based on the principles of humanness and accessibility. The principle of humanness is based among other things on the right to self-identification. The principle of accessibility is based, among other things, on health service accessible to all patients equally and without discrimination. Patients have rights to enjoy the rights defined in the Law on Right of Patients without discrimination based on sex, race, colour of skin, language, religion, political or other opinion, national and social origin, affiliation with a national minority, material status, origin by birth, **sexual orientation** or any other status.

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

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

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:

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:

There is no specific legislation prohibiting discrimination on grounds of sexual orientation and gender identity in the area of 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:

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:

A National coordination body for prevention of hostility on the sport field has been formed. It deals with all forms of discrimination, including on grounds of sexual orientation and gender identity.

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:

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:

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:

There is a number of bodies mandated to deal with discrimination in general. None of them is specifically mandated to deal with discrimination on grounds of sexual orientation and gender identity. However, the Ombudsman and the Commission for Protection against Discrimination made decisions by which they have recognized discrimination based on sexual orientation.

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 ?

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?

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