

CYPRUS

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.

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:

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:

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 Ministry of Justice and Public Order is in the process of proposing an amendment to the Criminal Code for the purposes of establishing a new offence on hate speech on grounds of sexual orientation and gender identity.

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 police maintain a central registry of offences/incidents of a racial nature or with racial motive since 2005.

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:

See comments to question no. 36.

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. ☒

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:

Police training curricula, lesson 146 (Racial and other Discrimination) is relevant.

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:

A series of decisions establish that the punishment of crime falls within the exclusive province of the judiciary. So are aggravating and mitigating circumstances. The courts may well consider the bias motive related to sexual orientation or gender identity as an aggravating circumstance.

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:

The issue of professionalism with regards to members of the LGBT community is covered in Police Training (lesson 146).

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:

In relation to the police, trainings on diversity issues are organised periodically.

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:

Lesbian, gay , bisexual and transgender persons are given the opportunity upon written request to be placed at a separate cell.

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:

The Ministry of Justice and Public Order is in the process of proposing an amendment to the Criminal Code for the purposes of establishing a new offence on hate speech on grounds of sexual orientation and gender identity.

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:

There are no specific measures in this regard. However, the relevant legislation (i.e. association and institutions law) does not provide for any restriction on the freedom of association for LGBT persons or any discrimination on the grounds of sexual orientation or gender identity.

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:

No such need was assessed and/or identified.

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:

Section 171 of the Criminal Code which criminalised same-sex sexual acts between consenting adults was repealed in 1998 by law 40(I)/1998. The equalisation with respect to the age consent for same-sex sexual acts and heterosexual acts took place in 2002 by law 145(I)/2002. This means that there is no difference in treatment between homosexual and heterosexual sexual relations with regards to the age of consent.

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:

Section 2 of the Data Protection Law (138(I)/2001) defines "sensitive data" as data concerning, inter alia, sexual life or sexual orientation of a person. Section 6 provides that the collection and processing of personal data is prohibited. At the same time the law enumerates a list of exceptions to this rule. Those exceptions are the following: (a) The data subject has given his explicit consent unless this consent has been obtained illegally or is contrary to accepted moral values, custom or if a specific law provides that the consent does not lift the prohibition; (b) The processing is necessary so that the data controller can fulfil his obligations or carry out his duties in the field of employment law and the Commissioner has given a permit for this purpose; (c) The processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving his consent; (d) The processing is carried out by an institution, club or any other non-profit making organisation which has political, philosophical, religious or trade-union aims, and relates solely to its members and such other persons with whom the aforesaid club, institution or organisation retains by reasons of its aims. Such data may be communicated to third parties only if the data subject gives his consent; (e) The processing relates

exclusively to data which are made public by the data subject or is necessary for establishment, exercise or defence of legal claims before the Courts; (f) The processing relates to medical data and is performed by a person providing health services by profession and has a duty of confidentiality or is subject to relevant codes of ethics on condition that the processing is necessary for preventive medicine, medical diagnosis, the provision of treatment or the management of health services; (g) The processing is necessary for serving national interests or national security, and criminological or correctional policy needs and as long as it is carried out by a service of the Republic or an organisation or institution authorised for that purpose by a service of the Republic and concerns the ascertainment of crimes, criminal sentencing, security measures and investigation into major destructions, i.e. natural disasters or large scale destruction caused by terrorist attacks or other criminal activity; (h) The processing is carried out exclusively for statistical, research, scientific and historical purposes, under the condition that according to the decision of the Commissioner it is deemed that there are serious reasons of public interest and all the necessary measures for the protection of the data subjects are taken; (i) the processing is carried out exclusively for journalistic purposes or within the framework of artistic expression provided that the right of protection of private and family life is not violated under any circumstances.

With regards to the police, it does not keep such data.

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:

In these circumstances the Civil Registry Department changes the name and gender of the person in the Population Registry. This means that the interested person is issued a new identity card, new passport and new voting card.

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:

Taking into consideration that the Marriage Law does not provide for any restrictions in this regard and that the gender reassignment results in the change of name and gender in the Population Registry and the issuing of a new identity card and passport, it seems that once gender reassignment has been completed and legally recognised, the transgender person may marry a person of the sex opposite to their reassigned sex.

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:

The law on the right of citizens of the Union and their family members to move and reside freely within the territory of the Republic of Cyprus (7(I)/2007) does not recognise registered same sex partnerships or unmarried couples as “family members” for the purposes of the said law. However, the Law Office of the Republic of Cyprus in 2008 issued a law opinion in this regard that the administration should facilitate the entry and residence in the Republic of the homosexual partner.

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:

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 Equal Treatment in Employment and Occupation law (58(I)/2004) refers to discrimination in the spheres of employment on the grounds of, inter alia, sexual orientation. The prohibition of discrimination is prohibited in the public and private sector. Section 9 of the said law refers to positive obligations. It establishes that a favourable treatment on the grounds of, inter alia, sexual orientation, is not considered as discrimination when the aim of the favourable treatment is to prevent or compensate for disadvantages linked to, inter alia, sexual orientation.

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:

The Ministry of Education and Culture has included the issue of sexual orientation and gender identity under the subject of Health Education (from pre-primary until the end of lower secondary education). The instructional methodology of this subject includes, among other, practical information, education and support services and materials related to self acceptance, tolerance and tackling homophobia.

There have been training opportunities for educators at all education levels. In the area of Health Education optional seminars are offered, which in 2012-2013, offer the following courses: school bullying, new health and sex education.

The recent establishment of an "observatory for violent behaviour in the school environment" provides information, protection and support to pupils and students.

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:

Each patient is treated according to his/her personal needs.

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:

There are no specific measures. However, each patient is treated according to his/her personal needs.

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:

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:

No such need was assessed and/or identified.

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:

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:

Section 3D (1) (d) (ii) of the Refugee Law. There are also examples where the status of refugee was granted to persons who have been recognised as facing a well founded fear of persecution based on sexual orientation and gender identity in their countries.

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:

Section 19 of the Refugee Law is broad enough to cover instances where asylum seekers face real risk to their life or freedom because of their sexual orientation and gender identity.

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 *Combating of Racism and Other Discrimination (Commissioner) Law 2004* vests the Commissioner for Administration – an independent Officer - with special competences, duties, and powers for combating and eliminating discrimination in both public and private sectors. Under its provisions, any person or group may lodge a complaint to the Commissioner as to having been subjected to discrimination prohibited by any law. In case of a finding of discrimination (following an investigation into the complaint), the Commissioner is empowered to order the person or authority responsible to pay a fine, and/or to address recommendations to them to take specific practical measures, for putting an end to, or not repeating the relevant treatment or conduct or application of the specific provision/term/criterion/practice, not only vis-a-vis the complainant, but also vis-a-vis all persons who are, or may find themselves in a similar situation. The Commissioner can also carry out investigations ex pro prio motu into incidents of discrimination, and also examine, following requests from persons or groups, whether some treatment or conduct or application of a provision/term/criterion/practice contemplated by them, constitutes discrimination. Findings and reports made by the Commissioner, when involving discriminatory provisions/ terms/ criteria/ practices found in legislation, must be communicated to the Attorney-General of the Republic, that is, to the Republic's Legal Adviser, who is under the Constitution an independent Officer of the State. As the Republic's Legal Adviser, the Attorney-General is responsible for advising the Government concerning its human rights obligations, and the enforcement of human rights through administrative/legislative measures.

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. ☐

Cyprus has signed and ratified the Protocol No. 12 of the European Convention of Human Rights.

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.