

CZECH REPUBLIC

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:

No, such a comprehensive review has not been carried out yet. However, anyone can lodge a constitutional complaint alleging discrimination on grounds of sexual orientation or gender identity with the Constitutional Court. Also, the Committee for the Sexual Minorities, the working committee of the Government Council for Human Rights, the Government's advisory body, has widely discussed the Recommendation and decided to act upon it.

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:

Such discrimination is addressed within the Labour Act, the Anti-discrimination Act and the Minor Offence Act.
The Public Defender of Rights may assist victims with initiating lawsuits on account of discrimination. Any person can lodge a constitutional complaint alleging discrimination on grounds of sexual orientation or gender identity with the Constitutional Court.

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.

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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 Public Defender of Rights issues brief statistics of the complaints received, they don't entail criminal justice.
The Criminal Code does not refer to sexual orientation or gender identity and therefore the law enforcement bodies do not collect any such data.

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:

Should the complainant meet statutory requirements, s/he can ask for free legal aid.
The Public Defender of Rights contributes to promotion of the right to equal treatment of all persons regardless of their sexual identity or sexual orientation. The Act on the Public Defender of Rights stipulates that the Defender provides methodical assistance to victims of discrimination in lodging their proposals for commencement of proceedings concerning discrimination.

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?

The Recommendation was discussed within the Prague Pride 2011 events and at the meeting of the Committee for the Sexual Minorities.

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:

The Government proposed a draft Law on the Victims of Criminal Offences seeking to provide the victims with the comprehensive compensation, rehabilitation, care, privacy protection and access to relevant information. It was adopted by the Lower House of the Parliament and is being discussed in the Upper House, it replaces the current relevant law. According to the draft law, at the pre-trial stage the victim of an offence is entitled to interrogation by a person of the same or the opposite sex.

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:

According to the Criminal Code, sexual orientation or gender identity is not directly listed as a motive that may be taken into account as an aggravating circumstance. However, it falls within “other highly deplorable motives” that may be taken into account.

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:

A draft Law on the Free Legal Aid is being proposed by the Government. A draft Law on the Victims of Criminal Offences was adopted by the Lower House of the Parliament and is being discussed in the Upper House. It is to replace the current Act and seeks to provide the victims with the comprehensive compensation, rehabilitation, care, privacy protection and access to relevant information.

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:

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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:

Both general laws on enforcement of sentences and specific directives deal with these issues. In particular, the Directive of the General Director of the Prison Service No. 12/2012 on the Prevention and Early Detection of the Violence among the Charged, Convicted and Inmates is applicable. It provides that any person susceptible to physical assault or sexual abuse qualifies for special measures to ensure his/her safety – separate housing, extra visual checks, extra medical examinations.

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 Criminal Code does not refer to sexual orientation or 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 limitations with regard to sexual orientation or gender identity whatsoever.

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 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:

The NGOs defending human rights of LGBT persons are represented within the Committee for Sexual Minorities which forms a part of the Government Human Rights Council, the advisory body of the Government. The Secretariat of the Government is consulted when bills of laws are drafted and may seek guidance from the Committee.

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:

Until 30 April 2001 rape was defined as a violent act against a woman. If a man was raped crime with a more lenient sentence was to be established. Later, the wording of the offence of rape was amended to be gender-blind.

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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:

Administrative procedures to obtain legal gender recognition are in place, however they require a surgical reassignment and a divorce.

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:

Neither joint nor second parent adoption is available to same-sex couples in the Czech Republic.

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:

Equal treatment in employment is guaranteed by the Charter of Fundamental Rights and Basic Freedoms and by the Anti-Discrimination Act. In Article 26(3) the Charter guarantees the right to acquire the means of his/her livelihood by work. The Anti-Discrimination Act prohibits discrimination in access to employment, promotion, dismissals, pay and other working conditions. Harassment is special form of discrimination.

Protection of privacy of transgender persons: Article 10(3) of the Charter lays down everyone's right to be protected from the unauthorized gathering, public revelation, or other misuse of personal data. In Article 316(4) the Labour Act provides for the protection of privacy of employees. The employer is not allowed to require from an employee any information which does not directly relate to work performance and to labour relationship. The employer is not allowed to require the information in particular of sexual identity, pregnancy, family and property information, origin, etc.

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.

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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 prohibition of discrimination in education is guaranteed by the Charter of Fundamental Rights and Basic Freedoms, the Anti-Discrimination Act and by the Education Act. Education is based on the principles of equal access of all citizens of the Czech Republic or nationals of any other European Union Member State to education without any discrimination based on any ground such as race, colour, sex, language, belief or religion, nationality, ethnic or social origin, property, gender, the health condition or any other status (section 2 of Education Act).

“Curriculum” is contained in the Framework Educational Programmes. Every Framework Educational Programme reflects the latest findings of scientific disciplines whose fundamental findings and practical usage should be delivered by education. It also reflects the latest findings of pedagogy and psychology on effective methods and organisation of education appropriate to the age and development of learners.

“School educational programmes” of every school have to be in compliance with the Framework Educational Programme. One of the aims of basic education, set by the Framework Educational Programme, is to lead pupils and students to tolerance to others, and the theme of the Educational Programme “Human and Society” is equality and prohibition of discrimination.

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:

Equal treatment in health services is guaranteed by the Charter of Fundamental Rights and Freedoms and the Anti-Discrimination Act. Specific health needs of transgender persons are reflected in the Specific Health Services Act (sex reassignment therapy and surgery for example).

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:

The right to own immovable property without any discrimination is guaranteed by the Charter of Fundamental Rights and Freedoms. Equal treatment in housing is guaranteed by the Anti-Discrimination Act, which prohibits discrimination in access to goods and services, including 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:

There are no special laws to prevent lesbian, gay, bisexual and transgender persons from becoming homeless. However, every form of access to housing is protected by the Anti-discrimination Act in general. Also, the Anti-discrimination Act deals with social care. Social benefits (like housing benefit or extra housing allowance) have to be provided on equal basis.

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:

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:

The Office of the Public Defender of Rights is the Czech equality body. The Office provides methodical assistance (after investigation) to victims of discrimination with complaining or taking legal action against somebody who discriminates, and in some cases the Office can try to procure free advocate. Also, the Office also carries out research, publishes reports and issues recommendations on discrimination-related questions.

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?

A periodical examination of the implementation can be carried out, but with a medium term frequency (5 years or so).

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