

Promoting and protecting the Human Rights of LGBTI persons

Thank you to ECRI for inviting the SOGI Unit to speak at this important event. This morning we heard some powerful testimonies, both as to how the human rights of LGBTI persons can be better protected, but also as to the consequences when such protections are inadequate, or even totally absent.

The SOGI Unit was established in 2014 and was mandated by the Committee of Ministers to work on sexual orientation and gender identity issues, following the adoption of the 2010 Recommendation to member states on combatting discrimination on grounds of sexual orientation or gender identity.

Within the Council of Europe, the Unit is the focal point for prevention-orientated work, reinforcing human rights on the grounds of sexual orientation and gender identity, and more recently also addressing sex characteristics. It cooperates closely with other Council of Europe sectors, institutions and member states and seeks partnerships with other intergovernmental organisations and civil society actors.

The Unit promotes the effective implementation of the Council of Europe standards and its work is grounded on the European Convention on Human Rights, the case-law of the European Court of Human Rights, the Committee of Ministers' Recommendation on measures to combat discrimination on grounds of sexual orientation or gender identity, the reports, recommendations and resolutions of various Council of Europe monitoring bodies (e.g. ECRI and CPT) and Institutions (e.g. Human Rights Commissioner, PACE and the Congress).

The Unit provides technical support and expertise to Member States, upon request, through cooperation activities aiming at improving the legal and institutional frameworks, organises capacity building activities for governments and local authorities dealing with LGBTI issues and promotes the sharing of good practices and raises awareness. In addition, it also coordinates the Secretariat of the European Governmental LGBTI Focal Points Network, an inter-governmental network with 35 CoE MS and with IOs and CSOs as observers.

One of the main activities is to provide support upon request of the member states in reviewing national legislation and drafting national, regional or local policies. This may include the provision of technical assistance, for example by developing **national action plans** addressing inequalities for LGBTI persons in various sectoral areas at the same time, such as access to justice, social rights, hate violence, etc. The SOGI Unit was requested to provide support and expertise with the drafting and implementation of National Action Plans in Albania, Slovakia, Bosnia and Herzegovina, Greece and Portugal. These action plans contain concrete goals and clear timelines. The countries that have adopted such plans are reporting on the progress twice a year during the European LGBTI Governmental Focal Points Network meetings.

In order to better assist the authorities, the Unit produced a publication on “National Action Plans as effective tools for the protection and promotion of the Human Rights of LGBTI people”. The publication provides examples, inspiration and resources to authorities intending to work towards the adoption of their own national action plan for the rights of LGBTI people.

The unit also provides **legal assistance on new legislation**. For example, over the last year, it has supported initiatives for legislative changes concerning legal gender recognition and legal recognition of same sex couples and rainbow families in several countries, including Cyprus, Italy, Lithuania, Montenegro, North Macedonia, Kosovo and Romania, Serbia and Spain. Another key legal assistance priority is that in the **execution of judgments** of the ECHR. To date, the Unit has assisted the execution process in four States: Lithuania, North Macedonia, Romania and Georgia, providing expertise to review or adopt national legislation or recommendations on legal gender recognition and homophobic hate crime investigation.

The unit also conducts **capacity building activities**, including producing several toolkits, one of which is aimed at **training law enforcement personnel**, so police and public prosecutors, on how to better address hate crime against LGBTI persons whilst being respectful and understanding towards victims of such crimes. This particular toolkit has been translated into 15 languages and used by the SOGI Unit both in training of trainers at European level, but also with law enforcement personnel at national level. In the last year, manuals aimed at the training of law enforcement agents in Albania, France, Lithuania, Montenegro, Moldova, Romania, Italy, Ukraine, Georgia, Serbia and Bulgaria have been released. Additional training of public prosecutors, in collaboration with in-house colleagues from HELP and Execution of Judgments is planned in Romania next month.

SOGIESC-based discrimination and violence in the **school environment** is another theme addressed by the Unit. Our joint publication with UNESCO “Safe at School: Education sector responses to violence based on sexual orientation, gender identity/expression or sex characteristics in Europe” aims to encourage national authorities to put in place measures to prevent SOGIESC-based discrimination and violence. Among other activities, the Unit will undertake cooperation with the French education sector, aimed at encouraging tangible actions in this area.

Exclusion from and discrimination in the **workplace** on SOGIESC grounds is a major obstacle to many LGBTI persons, reinforcing their social marginalisation and extreme hardships. Next month, the SOGI Unit will launch a publication aimed at encouraging measures by national authorities, employers and other organisations active in the field to allow for inclusive employment, reducing discrimination and other forms of SOGIESC-based violence both in the workplace and when trying to access employment. We aim for our future activities in this field to be a complement to the European Commission LGBTIQ Equality Strategy.

Hate speech is an increasing fact of life for LGBTI persons across Europe. Although, as one of this morning’s speakers demonstrated so well, some parts of Europe have recently enacted strong legislation to attempt to stem this worrying trend, much more action, both legislative and educational, is needed. The SOGI Unit collaborates closely with the Council of Europe No Hate Speech Unit’s actions in this area. To counter anti LGBTI discourse, often stemming from

people in a position of influence, last year, the Unit commissioned the development of a targeted training curricula to raise awareness amongst faith-based representatives on tackling the LGBTI-hatred discourse. A first session took place in September, with broader and more specifically targeted activities to encourage respectful treatment of LGBTI persons planned over the coming months.

Violence on the grounds of **sex characteristics** is a profound issue across Europe. One of its most concerning and visible forms is that taken against intersex persons, who, because of prejudice and misunderstanding based on predominant stereotypes, continue to find themselves subjected to invasive, unchosen medical procedures during infancy. Education at all levels, including within the medical establishment, is vital to put an end to this violence founded on prejudice on the grounds of sex characteristics. Recently, the SOGI Unit has worked closely with major European actors in this field, notably collaborating with authorities in Finland as well as NGOs including OII and also from the Western Balkans, to allow for awareness raising webinars and ongoing studies to inform both national authorities and other actors, including the medical establishment, as to what is happening, and measures that can be taken to avoid violence and discrimination.

In the field of **sports**, notably but not only at competition level, discrimination, exclusion and hate speech are persistent factors facing LGBTI persons. The SOGI Unit is collaborating with colleagues from EPAS, along with major actors, including global sporting authorities such as the International Olympic Committee, to put in place a broad array of educational and other measures allowing for better understanding, to encourage sporting authorities at all levels to put an end to rules which reinforce SOGIESC-based violence and exclusion.

During the Covid-19 pandemic, the SOGI Unit has been involved in providing **grants** to LGBTI organisations in a number of European member States, including Serbia, Greece, the UK and Italy, Albania and North Macedonia. These grants have been able to assist in both short-term actions such as providing immediate healthcare and shelter to vulnerable LGBTI persons, such as transgender sex workers, but have also allowed for long term educational action, to raise awareness with public authorities and encourage lasting social change.

In parallel, the SOGI Unit has been able to give assistance to **Pride events** in member States such as Albania, Bosnia and Herzegovina, North Macedonia, Montenegro and Romania, where Pride events are ground-breaking opportunities to raise visibility and awareness of the needs of LGBTI persons.

This morning, we heard from two speakers who have been forced to flee their home countries and **seek asylum** in Europe because of overwhelming danger on SOGIESC-grounds. The SOGI Unit was privileged to welcome one of these speakers to participate in a study visit at the Council of Europe, helping them to prepare a report in order that their voice be heard by audiences such as yourselves. The SOGI Unit participates in ongoing actions with EASO and the UNHCR, including bilateral discussions in Cyprus as recently as last Friday, to raise awareness and encourage public authorities to make necessary improvements to the way in which LGBTI refugees and migrants are accepted and helped to reconstruct their lives on arrival in Europe. Today is an opportunity for us to consider what actions we can all take, given

our participation in today's conference, to help guarantee that Europe can become both a harbour of peace for those fleeing SOGIESC- based violence and persecution, and a shining example to other nations as to how to respect and include all LGBTI persons, in the broadest possible sense, in all the areas we have raised today.

"I have mentioned many of the themes we are working on today, however there remain major human rights challenges in this field which as yet, the Council of Europe has barely, if at all, addressed. One such major challenge is the rise in anti-gender movements, not just across Europe, but globally. This movement, which impacts access to SOGIESC human rights across Europe, denies the existence of gender identity, divides, discriminates and excludes on the basis of so-called "sex-based" rights. It has been instrumental in the growing increase of anti-LGBTI hate speech and violence, both on-line and face-to-face events over recent years, contributing to an observed roll-back of human rights across Europe.

Another major challenge, is that of respecting human rights on the grounds of sex characteristics. To date, the Court, as well as the SOGI Unit, has had little opportunity to address this area, which rather than so-called "minority" subject, is fundamental to combating sexism, so-called body "norms", and violence based on stereotypes. Meeting this challenge will also require recognising that those facing discrimination and other human rights abuse on the grounds of sex characteristics also face human rights abuse on the grounds of gender identity.

Lastly, depathologisation, irrespective of gender identity or sex characteristics is an unmet, and major challenge going beyond that of addressing unconsented medical intervention on infants. It involves recognising that rather than some unknown medical condition, the violence of constant social pressure created by so-called sex and gender "norms" contributes to the requirement for sex- and gender- related medical help by some intersex and transgender persons after infancy. It also requires us to face the much greater political aspect of dominant sex and gender norms which contribute to the need for "cosmetic" procedures and all sex and gender violence in the broadest possible sense.