

OVERVIEW AND TRENDS

There are two sides to the story that clearly emerges from this, our 11th Annual Review of the Human Rights Situation for LGBTI people in Europe and Central Asia. On one hand, there was **a severe rise in 2021 of anti-LGBTI rhetoric** from politicians and other leaders, which has **fuelled a wave of violence**, with anti-LGBTI hate crime reported in every country this year, while on the other the response to this has been **an allied determination** in many countries, and at the European level, **to tackle hatred and exclusion** of LGBTI people.

The continuing COVID-19 pandemic throughout the year was undoubtedly an influencing factor, with some leaders exploiting the limitations it transposed onto populations, while at the same time the **socio-economic disparities** of particularly vulnerable groups, including those within LGBTI communities, were **brought further into relief**. The majority of states have failed to address the needs of LGBTI communities during the pandemic and civil society organisations continued to fill the gaps this year, providing food, shelter and access to medical testing, and responding to an enormous demand for mental health support. Activists reported exhaustion while struggling with **funding shortages**.

A core finding for ILGA-Europe from this narrative report is the **anomaly between our Annual Review and** the other component of this module, **the Rainbow Europe Map**, which ranks countries based on legislative change. The **situation for LGBTI asylum seekers**, for instance, is almost **invariably fraught** with specific difficulties and injustice, despite some countries placing high in the rankings for positive legislative change. Denmark, Estonia, France, Germany, Greece, Malta, The Netherlands, Portugal, Spain, Sweden and the UK are among the countries where LGBTI asylum seekers face double discriminations.

The report also shows **the impact of erosions of democracy** and political instability in countries including Azerbaijan, Belarus, Kazakhstan and Turkey, both on LGBTI people in these countries and in neighboring countries, **as many flee persecution**. In Belarus the brutal crackdown on civil society that began amid mass anti-government protests in January 2021, has increased to include targeting of LGBTI organisations, publications and human rights defenders, while high-profile perceived enemies of the state have been filmed making forced confessions of homosexuality. LGBTI people are wanting to leave or are fleeing oppressive situations in, for example, Albania, Hungary, and Poland.

Another stark element in this report is the **emerging instrumentalisation of the rainbow flag** as a symbol of division rather than unity. Created over 40 years ago by a member of the LGBTI community as a dignified representation of its diversity and coherence, over the course of 2021, the rainbow flag was used by both supporters and detractors of LGBTI people. This was brought into sharp relief in June, when during the European Football Championships UEFA refused on political grounds to allow a Munich football stadium to be lit in rainbow colours as a show of support for LGBTI people in Hungary. Throughout the following months there are reports in these pages of **rainbow flags being burned, torn down, and rainbow-painted public amenities desecrated** in countries beyond the places where we have previously reported such activity, including Croatia, Germany, Ireland, Italy, The Netherlands, Norway, Finland and Spain.

Behind this symbolic division, the human rights situation for LGBTI people in Europe and Central Asia is increasingly complex, with certain groups becoming more and more vulnerable. **Anti-gender and anti-trans rhetoric have remained widespread**, strong and steady, very **often targeting youth** in particular. Claims by opposition forces that self-determination for trans people will lead to harming minors has led to tangible changes, with several clinics in Sweden, for instance, removing service provision to trans youth who are on their waiting lists.

We have documented several **suicides and deaths of young people**, including a 14-year-old girl in France who took her own life after years of lesbophobic and Islamophobic bullying. Over half of LGBTI students in Denmark had suicidal thoughts or self-harmed, while 82% of LGBTI students in Northern Ireland have thought of suicide. 80% of LGBT students feel unsafe in school in Ukraine and 40% missed school only this past month because of this.

However, there was **mobilisation amongst young LGBTI people and their peers**, with initiatives and demonstrations in several countries, including in Norway, where eighth graders organised the first Pride in their town, and Ukraine, where hundreds of LGBTI young people held a six-hour rave outside the president's office demanding comprehensive hate crime legislation.

The false narrative pitching trans rights against women's rights also continued apace this year, including in Serbia, Spain and the UK. Amid this context there was **stagnation in legal gender recognition (LGR)** reform in countries including Andorra, Belgium, Croatia, Finland, Germany, Montenegro, North Macedonia, Slovenia, Sweden and Slovakia, and regression in Greece, Poland, Portugal and Russia. Meanwhile there was some progress in Bulgaria, Croatia, Georgia, Kosovo, Lithuania and Turkey. The Spanish government adopted its draft LGR legislation this year, setting out self-determination for those 16 or over. As the legislation was debated across the media, there was a spike in anti-trans rhetoric, including from politicians and members of government and a rise in anti-LGBTI hate crime. In moving forward with the adoption of the law, the Spanish government, however, held firm its role as defender of human rights for trans people.

A growing number of countries are recognising or beginning to address **the rights of intersex people**. Germany banned intersex surgeries and Belgium made an important step towards working on such legislation, while the Netherlands apologised to victims of sterilisation and gave some compensation. Meanwhile Finland failed to make progress on its intersex surgery ban, while a flawed amendment on banning intersex genital mutilation was tabled in France without consultations with intersex activists.

France became the third country in Europe to ban so-called 'conversion therapies' after Malta in 2016 and Germany in 2020 banning such 'therapies' for minors (in 2020 Albania adopted non-legislative medical guidelines on banning the practice), showing that this is an issue that is also gaining further prominence across the region. The Danish government continued with its plan to ban the harmful practice, a citizens initiative in Finland on banning conversion therapies will go parliament, while in Ireland civil society set up an Anti-conversion Therapy Coalition. Meanwhile legislative bans in Norway and the UK have stalled.

Employment is also a rising issue, **particularly for trans people** and in regard to anti-trans narratives. In Belgium, two studies found that people are either not invited for an interview, or leave their jobs because they are trans, while discrimination against trans people in the workplace is on the rise in North Macedonia, Poland, Romania and Spain. In the UK false information about Stonewall's trans inclusion policies prompted several government agencies and companies, including the BBC, to withdraw from the organisation's workplace equality scheme. On a more positive note, the new Greek Labour Code includes gender expression, while in Hungary the ombudsman said employers must provide gendered facilities in line with gender identity.

By far the most stark finding in this report is a staggering rise in hate speech and related violence on the streets of, and in homes, in every country across the region. There was hate speech from politicians targeting LGBTI people in Azerbaijan, Bulgaria, Croatia, Czechia, Cyprus (also in the northern part), Estonia, Finland, Hungary, Georgia, Greece, Hungary, Italy, Lithuania, Moldova, Montenegro, North Macedonia, Poland, Slovakia, Slovenia, Spain, Turkey, and the UK. Religious leaders spread hateful misinformation about LGBTI people in Georgia, Italy, Slovakia, Turkey, and Ukraine; while police in Denmark and Finland, and border guards in Romania did the same. Journalists and the media negatively targeted LGBTI people in Albania, Andorra, Belarus, Denmark, France, Germany, Moldova, Netherlands, North Macedonia, Norway, Portugal, Spain, Switzerland and the UK.

Violence against LGBTI people in this context was rife. Germany, for instance, had a 39% increase in anti-LGBTI hate crime, while a new app in France, where users can report anti-LGBTI hate crimes, collected reports of 3,896 incidents in its first year. In this, the second year of the COVID-19 pandemic, domestic violence against LGBTI family members continued to take place widely. There were murders in Azerbaijan, Belgium, Cyprus, France, Georgia, Russia, Spain and

Turkey. LGBTI events and/or offices were attacked in Bulgaria, Croatia, Czechia, Finland, Georgia and Serbia. Other hate crimes included assaults, corrective rapes, and anti-LGBTI police brutality. In many countries where police brutality took place, the police were not held accountable.

A particular low point of the year came on June 15, with Hungary's introduction of legislation which introduced a ban on the "portrayal and the promotion of gender identity different from sex at birth, the change of sex and homosexuality" for persons under 18. Widely compared to the Russian anti-propaganda law, it was condemned by 18 EU Member States, although Romania, Poland and Slovakia have all mooted plans to copy the law, or Hungary's 2020 LGR ban.

It is however quite clear from this report that **state-sponsored anti-LGBTI rhetoric** and legislation **is not matched by public opinion**. Support for LGBTI people has never been stronger in Hungary and polls show the public sees the new legislation as a political tool. Hardly any Serbians know trans people, but 60% think they should be protected from discrimination. 68% of Romanians think all families, including rainbow families, should be protected, while 40% of Bulgarians would support a party that is pro-LGBTI.

Meanwhile, **national human rights institutions (NHRIs) and courts** in many countries have done a strong job **protecting the rights of LGBTI people**. Many LGR denials were overturned in Hungary, while *Bell v. Tavistock*, the case before the Court of Appeal on the question of whether puberty blockers could be prescribed to under-18s with gender dysphoria was quashed in the UK. Several countries issued fines and prison sentences over hate speech and hate crime incidents. The courts in Turkey ruled against the conviction of students for taking part in the METU Pride march, in a case that had lasted for over two years. NHRIs found discrimination in Hungary, North Macedonia, Serbia, and many other countries.

The European Court of Human Rights delivered **several positive judgments** this year, on hate crimes, freedom of assembly, LGR and family rights. The Court of Justice of the EU ruled in the case of baby Sara, the daughter of Bulgarian and British lesbian parents, that if one EU member state recognises a parental relationship between a child and its parents, then all member states should, in order to give the child its right to freedom of movement. The court said baby Sara should be issued a Bulgarian passport, and her **family should have free movement in all member states** of the European Union.

In March, the European Parliament adopted a resolution declaring the **EU an LGBTIQ freedom zone**. The resolution condemned the fact that in Poland regions had adopted 'LGBT free zone' resolutions, as well as other persisting LGBTI rights violations in some EU member states. Six months later, the European Parliament adopted its **resolution on LGBTIQ rights in the EU**, welcoming the EU LGBTIQ Strategy, strongly supporting the EC's objective to propose legislation in several areas of protecting LGBTI rights, and condemning where member states have not been respecting EU law and CJEU judgements as regards LGBTI rights.

By far the strongest commitment to LGBTI human rights from European Union level came when the Commission in July opened **landmark infringement procedures** against both Hungary and Poland. The procedures against Hungary concern the censorship of a children's book portraying LGBTI characters, and the anti-LGBTI legislation that entered into force in June. The procedures against Poland concern a refusal to clarify whether LGBTI people are discriminated against in the labour market in the country's so-called 'LGBT Free Zones'.

In this and other respects, this report narrates an unparalleled year in Europe, with regional and national institutions and courts taking their obligations to the human rights of LGBTI people with utmost gravity amid the now crystal clear escalation of the instrumentalisation of hatred against LGBTI people for political gain and expanded power.

In all five countries that comprise **Central Asia**, however, it has been a year of **further regression**.

A campaign for the repeal of Article 120 of the Uzbekistan Criminal Code, which criminalises consensual same-sex conduct between men, gained traction across Europe, bringing wide visibility to the persecution of LGBTI people in

the country. However the Uzbeki Prosecutor General failed to decriminalise consensual same-sex conduct, instead moving the provision from Article 120 to Article 154, which is now listed under a new chapter called “Crimes against family, children and morality”.

Hate speech by politicians and the media remains a serious issue and **brutal hate crimes** were documented in all five countries, including in Uzbekistan, where in March a group of people perceived to be LGBTI were attacked and beaten by a large gang of men. The pro-LGBTI rights blogger Miraziz Bazarov was also severely beaten and hospitalised. The police blamed Bazarov for the attack. He was arrested upon his release from hospital and is currently facing prosecution. After the March attack, the authorities launched a targeted search for LGBT activists and interrogated many human rights defenders.

Arrests, detention, **police brutality** (including extortion, threats, violence, torture) continued this year in Tajikistan, Uzbekistan, and Turkmenistan, while a number of new laws were introduced and/or are planned that could further restrict LGBTI rights in Kyrgyzstan and Uzbekistan. Tajikistan dropped sexual orientation and gender identity from the most recent drafts of its anti-discrimination law.

Activists in every Central Asian country have remained courageously active despite backlash, threats and attacks.

This overview only focuses on some particular trends and learnings we have pulled from the wealth of information our Annual Review pulls together, with the help of committed country experts across Europe and Central Asia. There would not be space to cover the many other trends and learnings to be gleaned from this report.

Last year, we identified that while many people within the movement are talking about intersectionality, and taking steps to work on intersecting inequalities that affect LGBTI people, very few groups were articulating their work and commitments. This year we are **encouraged to see intersectionality emerging** into the narrative of our review. For instance there has been progress in Roma and disability rights and LGBTI cooperation in Albania; the introduction of a deaf LGBTI resource in Hungary; while in Finland there was the establishment of an association for older LGBTI people. This is a trend we expect to see more reporting in the coming years.