



Eastern European Coalition
for LGBT+ Equality

The Eastern European for LGBT+ Equality's¹ Input to Inform the Independent experts report addressed to the HRC on data collection and management

1. **What are the current efforts by States to increase their knowledge of the LGBT population? Specifically, are questions about sexual orientation and gender identity included in government surveys (e.g. the census, national health surveys, income and living condition surveys, or other surveys funded or mandated by the State), administrative records (e.g. birth certificates/birth registries, identity Cards, school records, professional licenses, social security and public benefit records, and other government documents)?**

Governments in the Eastern Partnership Countries and Russia have long been ignoring LGBT+ people as a population who is under special risks of violence and discrimination and have not made any meaningful efforts to increase their knowledge of the situation of this group. The instances, where data has been collected on LGBT+ people by the government agencies, has been for the purpose of persecution. Any important information about lived realities of LGBT+ people in the region is almost exclusively obtained, recorded and analyzed by the non-governmental organizations. In some of the countries, the cases the rights violations are documented by the offices of Public Defender.

2. **What kinds of data can be collected by government to understand the nature and extent of violence (e.g. through statistics on LGBT-phobic hate crimes and hate speech), discrimination, and disparities in health, education, labour, civic participation, and other important areas?**

¹ The Coalition features the following organizations: PINK Armenia, GENDERDOC-M, Insight (Ukraine), Gay Alliance Ukraine, Women's Initiatives Supporting Group (Georgia), the Russian LGBT Network
<https://www.facebook.com/LGBTEasternCoalition/>

In order for the states to efficiently ensure the fulfillment of rights for different social groups, including LGBT+ community relevant government agencies need to acknowledge and take the data collected by the NGO's seriously, at the same time as they, in cooperation with civil society and external experts, improve their methods of data collection on vulnerable groups:

- The states need to document the cases of violence and discrimination against LGBT+ people focusing on aspects such as: homo/bi/transphobic grounds for violence (including domestic violence), threats (especially against LGBT+ human rights defenders), killings and ultra-right attacks (increasingly relevant in Ukraine, Georgia and Russia);
- Ideally, it is important that the States collect data (through state sponsored research, for instance) on health (both physical and mental) of LGBT+ communities and needs in terms of social protection systems and public services;
- It is also important, that data is disaggregated in terms of gender, given that LBT women are the most vulnerable group when it comes to hate crimes due to their belonging to LGBT group and women at the same time. Trans people usually don't report to the police on hate crimes due to problems with registration of their cases, based on mismatch of their legal documents and physical appearance;
- While we realize that the Expert's mandate does not cover the area of sex characteristics, we find it important to mention, that in Eastern Partnership countries and Russia, there is hardly any official information about the surgeries on intersex children and the effects that these surgeries have on their lives. This is something that needs to be tackled by the relevant health ministries.

3. What safeguards are in place, and what safeguards are needed, to protect the human rights of individuals providing personal data as well as individuals collecting such data? This question includes the following:

- a. Safeguards to protect the privacy of individuals who provide data about their sexual orientation/gender identity, and the confidentiality of the data provided by these individuals.**
- b. Broader statutory rules or administrative policies to insure transparency and accountability of government institutions such as statistical bodies.**

There is a range of safeguards across the region, from data protection inspectors to legislative frameworks allowing to address the courts in cases when right to privacy is violated. However, it needs to be considered, that LGBT+ people are not able to access the justice system with the same freedom as the other citizens due to fear of outing and further victimization. In order to overcome this, the relevant authorities and agencies need to be sensitized on SOGIE issues.

Importantly, safeguards are missing in the region, when it comes to the rights of transgender people. The region has slightly varying procedures around legal gender recognition, but even the improvements made in Ukraine and Russia, wouldn't count as "swift, transparent and accessible" as CM/Rec 2010(5)² recommends. Aside from the actual availability of such procedures, the problem that often remains ignored is what happens to the data after the gender marker is changed. For instance, in Ukraine when legal gender recognition is granted, that doesn't mean that previous personal data of the trans person would never easily resurface. There is no procedure of an automatic change of all the personal documents - instead of that every document like passport, drive license, educational certificates, bank profiles etc. should be changed separately, and every change procedure should be initiated by the person themselves. Which takes time and regular disclosure of one's gender identity.

Another area, where protection of personal data is of utmost importance is the programs aiming at prevention and treatment of HIV/AIDS. For instance, in Georgia, the guidance on the treatment and prevention of HIV/AIDS with antiretroviral medicines states that for the purpose of the provision of PEP for post-exposure HIV prevention, the assessment of the beneficiaries should be based on the knowledge of HIV status of a source of possible infection. This provision violates the confidentiality of patients' personal data. Particularly, their HIV status is disclosed if a representative of the MSM group addresses the AIDS Centre and says that he had unprotected sexual contact with a male partner. The Centre's employees look at their data and if the partner is registered as an HIV-positive person, they report their status to the person who contacted them. There were cases when information was received by third parties who were not partners of HIV-infected MSM and still their status was disclosed.

² https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cf40a

These examples show, that while there are improvements in terms of access to specific procedures and services, these changes are not necessarily sensitive to the needs of the populations which they are supposed to serve.

4. What are the risks associated with the collection and management of data on sexual orientation and gender identity and initiatives to overcome those?

Eastern Partnership Countries and Russia, have a history of state surveillance in the Soviet Union, which unfortunately, left a mark affecting the current political situation as well. While it is known, that the governments always maintain the right to interfere with the individuals' privacy on specific occasions, the countries with more authoritarian governments and/or less transparently functioning governmental institutions, are often using this right to target specific groups, that are in one way or another considered undesirable. However, even the states that score higher on the democracy scales, are somewhat affected by the Soviet heritage of using SOGI issues in political speculations and as a means to divert attention from important social and political processes. For instance, in 2012-2013 it became evident that the Georgian government had collected illegal footage, that, among other things featured gay sex workers and targeted politicians and public figures. A fragment of one such video was released and broadcasted by mass media. Needless to say, that LGBT+ community are extremely vulnerable towards the blackmail and coercion to cooperate with authorities, given that very few people are out with their families and social circles and many are struggling financially.

In 2017, we faced two vicious cases of States collecting data on LGBT+ community for the purpose of persecution in Russian Federation³, namely republic of Chechnya (as well as some other North Caucasian republics, however to a much lesser scale) and Azerbaijan⁴. In both cases the community members were illegally detained and harassed. The case of state-led crackdown on LGBT community in Chechnya, including torture and killings, continues to shake the world⁵. In 2017 and 2018 Several queer events were raided by the law enforcement in Belarus⁶ and the personal information was collected from the detained against their will.

³ <https://www.hrw.org/report/2017/05/26/they-have-long-arms-and-they-can-find-me/anti-gay-purge-local-authorities-russias>

⁴ <https://www.theguardian.com/world/2017/sep/28/azerbaijan-police-crackdown-lgbt-community>

⁵ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24162&LangID=E>

⁶ <https://www.gaytimes.co.uk/community/91123/lgbt-people-belarus-reportedly-detained-club-raids/>

The legal situation and political climate in Russia, provides many cases of state paying "special attention" to information available about individuals and activists that promote equality for LGBT+ people. Since the so called Anti-propaganda Law was adopted in the Russian Federation, the government interference in private life has become a systematic occurrence, aiming at suppressing "undesirable" activities in the country. There is a widespread trend of police intimidating activists of various opposition movements, including LGBT+ community. In recent years, this has been happening with the use of the Internet: there are cases when law enforcement officers choose one or more publications from the personal pages of activists and initiate an administrative or criminal case. LGBT activists are easily enough brought to administrative responsibility, for example, if they place LGBT related materials in their accounts, as follows from the vague wording of the law on the prohibition of propaganda (let us remember that it lacks the definition of "propaganda", so almost anything can be brought under this article). The investigation of such cases is often biased, and the focus of "propaganda" on minors in practice becomes an unnecessary basis for initiating a case.

5. Are there circumstances where data collection is ill-advised, such as in countries that criminalize same-sex behavior or where particular government agencies have demonstrated a cause for concern regarding their treatment of issues related to sexual orientation and gender identity?

Same-sex relations are not criminalized in Eastern Partnership Countries and Russia. However, considering the propaganda law in Russia, its influence and harsh attitude of some governments towards LGBT issues (in particular in Russia, Belarus and Azerbaijan), every state-led initiative to increase their knowledge of LGBT+ community would have to be tackled with caution.

Given that across the region we don't have examples of a well-functioning system of data collection on the part of the states, that the communities would also trust, we also don't have the examples of this data being used improperly. Aside from the cases where information and data received by the state agencies about specific activists or planned protests is leaked to the opposing right wing and ultra conservative groups. Examples of improper use of such data, for different political purposes is described under the question n.4.

6. When States engage in data gathering activity, to what extent is civil society able to meaningfully participate in the design and implementation of these programs? This question includes the following:

- a. **Do states have policies that guide the process of civil society participation national statistical programs and other State efforts to increase knowledge about LGBT populations?**
- b. **Does civil society have the capacity, in terms of expertise and technical knowledge, to meaningfully participate in State efforts to gather data?**
- c. **What constitutes meaningful participation in this area?**

While there may be no specific policies guiding civil society's participation in national statistical programs, we face the establishment of quite a healthy information exchange culture between State and civil society in some countries, although the smoothness of the process often depends on specific political mandate holders. In some other countries, civil society is extremely restricted and subjected to increasing pressure from the states.

In both cases, LGBT+ organizations and activists in the Eastern Partnership Countries and Russian Federation, the civil society has enough capacity but also, when needed access to external expertise that could serve to improve their skills and knowledge on data collection. The civil society organizations, as mentioned above, are the main holders of information and data on different aspects of lived realities of LGBT+ people in the region and already monitor rights violations and conduct different types of research. The activists work applying a variety of tools, that are also quite comparable across the region, and are better equipped to assess what information is meaningful to collect.

Following up on the previous question, it is necessary to note, that because the trust of the marginalized groups towards the state is very low, the states will have to rely on the NGO's and make effort to build trust with the communities. The collected data will need to continue be anonymous in all the instances where it is possible.