



ECOM

**LGBT PEOPLE'S RIGHTS IN UZBEKISTAN
FOR 44th SESSION OF UNIVERSAL PERIODIC REVIEW
SUBMISSION BY ECOM**

Introduction

1. **Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM)**, an international non-governmental organization based in Tallinn, Estonia. We are a membership organization open to non-profit organizations and activists working in the areas of HIV prevention, treatment, care, and support for men who have sex with men and transgender people in Eastern Europe and Central Asia (EECA) region.
2. Lesbian, gay, bisexual and trans (LGBT) people in Uzbekistan face numerous problems. Violence and discrimination against LGBT people in Uzbekistan are rooted in extreme levels of homophobia in society. This, in turn, is closely linked to the systemic negative impact created by the criminalization of the consensual same-sex intercourse between adult males (Article 120 of the Criminal Code of Uzbekistan) which is punishable with up to three-year imprisonment. LGBT people encounter numerous intersecting human rights violations in Uzbekistan and the State offers no protection and legal remedies as by criminalization of same-sex intercourse between males it leaves this group of people vulnerable to violence, abuses and even killings.
3. Out of 212 received recommendations in the third cycle of UPR, Uzbekistan did not accept only 14,¹ where 11 recommendations were recommendations regarding sexual orientation: R. 102.1 Adopt legislation against discrimination based on gender, disability, migration status, and sexual orientation and gender identity (Mexico); R. 102.2 Take the necessary measures to repeal from the Criminal Code the criminalization of consensual sexual relations between persons of the same sex (Argentina); R. 102.3 Combat any form of discrimination or violence against persons based on their sexual orientation or gender identity, and repeal article 120 of the Criminal Code, which criminalizes consensual sexual activities between adult males (Iceland); R. 102.9 Repeal article 120 of the Criminal Code that criminalizes consensual relationships between men, and take measures to alleviate the discrimination against the lesbian, gay, bisexual, transgender and intersex community and to investigate and punish acts of violence and so-called “hate crimes” (Spain); and there are seven more recommendations regarding discrimination based on sexual orientation and gender identity (102.4, 102.5, 102.6, 102.7, 102.8, 102.10 and 102.11).
4. Uzbekistan accepted these recommendations: 101.125 Make the registration process and requirements for independent NGOs working in the human rights sector more flexible (Spain); 101.116 Ensure that all civil society and human rights organizations

¹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/271/79/PDF/G1827179.pdf?OpenElement>

can work without hindrance by lifting prohibitive registration requirements, burdensome programme approval regulations and censorship of printed materials (Germany); 101.121 Review the June 2015 law on NGOs and the laws on defamation to bring them into line with international standards, including Uzbekistan's obligations under the International Covenant on Civil and Political Rights (Lithuania); However, although some progress has been made, many civil society activists will confirm that, unfortunately, the space for civil society activities in Uzbekistan still remains overly controlled and limited². In the case of LGBT organizations those recommendations have never been fulfilled.

Decriminalization of homosexuality

5. In 2019, when submitting its fifth periodic report to the Human Rights Committee, Uzbekistan stated that it would not repeal Article 120³ of the Criminal Code of Uzbekistan, because «this is contrary to the traditions of the multinational people of Uzbekistan, the values of the family and national customs that have evolved over thousands of years, and will cause widespread objection from the population»⁴. In 2020, the Committee once again recommended repealing Article 120 and adopting effective measures to combat hate speech, discrimination, and hate crimes against LGBT people⁵. These recommendations have not been implemented.
6. For the first time, the Ministry of Interior published data about convictions under Article 120: six people were convicted in 2016, 15 in 2017, seven in 2018, also seven in 2019, and nine in 2020. As of April 2021 as many as 49 people were reported to be in prison for 'homosexuality'. Previously, Uzbek officials would deny convictions under article 120⁶.

² <https://www.hrw.org/ru/news/2021/01/06/377535>

³ Article 120 — Besoqolbozlik (sodomy) is a discriminatory term. Voluntary sexual relations between men are punishable by a restriction of freedom from 1 to 3 years or by imprisonment of up to 3 years. The Criminal Code of the Republic of Uzbekistan available at: <https://lex.uz/docs/111457>

⁴ <https://rb.gy/3yr2>

⁵ <https://rb.gy/4n0g>

⁶ Annual Review of the Human Rights Situation of LGBT people in Europe and Central Asia 2022 <https://www.ilga-europe.org/report/annual-review-2022/>

7. In 2021, a new draft criminal code was presented, from which a number of articles contradicting Uzbekistan's international obligations were removed. However, in the new version proposed for public discussion, there is still an article prohibiting “sodomy”.
8. The criminalization violates not only international human rights standards, but also serves as a kind of cudgel for the state to use to harass and extort money from men regardless of their sexual orientation. The ECOM has documented cases in which law enforcement officials, when meeting gay on the Internet and making dates, have tortured, assaulted and blackmailed them, demanding large sums of money in exchange for their freedom.
9. Here are some of the cases documented in 2022:

Two victims were celebrating a holiday at their home, where there was a conflict between them. The neighbors called a district police officer. While investigating the circumstances of the conflict, the policeman found out about their homosexuality. Two days later, the police officer invited them to the police station to testify, where he said that they would be tried under Article 120 of the Criminal Code. The men gave a bribe of USD 1,500, and the conflict was over.
10. The bisexual man met another man on a dating website. He said he would pick him up in a taxi. Both of them sat in the back seat, the driver sat in front. During the trip, it turned out that the driver and the man were in cahoots, and they started threatening him. The victim was hit in the face and chest, threatened with a knife, and demanded to give the phone and unlock it. The driver of the car said that he is a police officer and the victim will be tried under article 120, and will also tell his relatives about his sexual orientations and gender identity (SOGI). They demanded 700 USD. The victim refused to pursue justice and contact the police because of Article 120.
11. This case was documented as evidence of the use of Article 120 for political purposes: one of the suspects who participated in a rally in Nukus to prevent a change in the status of the Republic of Karakalpakstan was threatened with Article 120 and subsequent "social destruction" if he did not testify against human rights defender.

HIV/AIDS

12. The Law of the Republic of Uzbekistan "On Combating the Spread of Disease Caused by HIV" allows for compulsory HIV testing of any person not only by court order, but also by order of an official (inquirer, prosecutor, investigator).
13. In August 2022, the Uzbek Interior Ministry submitted a draft Cabinet of Ministers resolution on compulsory medical examinations for HIV for public discussion. Forced medical examination is a violation of human rights and not only does not bring positive change in the fight against HIV, but also worsens the situation.⁷
14. In addition to compulsory testing, the authorities are supposed to keep records of people in the "risk group" in order to prevent "moral and spiritual degradation among the population. The Uzbek authorities will have additional leverage against the LGBT community, people who live with HIV, and any citizens who prove unwelcome to the authorities, since the project covers a wide range of groups and has an abstract language.
15. Article 113⁸ of the Uzbek Criminal Code criminalizes not only HIV transmission, but also "knowingly placing a person in danger of becoming infected". The law does not specify whether this article excludes cases of informed consent of another sex partner or the use of precautionary measures in the form of ARV treatment and condoms. In 2022, there was a reported case where a gay man was convicted under this article even though he was on ARV treatment. Thus, all people living with HIV who have sex can be criminally prosecuted, violating their right to sexual health.
16. There is direct discrimination against people living with HIV in Uzbekistan. They are obliged to disclose information about their sexual partners to state services in accordance with Article 57 of the Code of the Republic of Uzbekistan on Administrative Responsibility, which prohibits concealment of the source of

⁷ <https://www.gazeta.uz/ru/2022/08/30/compulsory-medical-examination/>

⁸ The Criminal Code of the Republic of Uzbekistan <https://lex.uz/docs/111457#157858>

⁹ <https://lex.uz/docs/97661#1630234>

infection⁹. The new draft Criminal Code of Uzbekistan defines Article 113 as Article 136, which provides a penalty of 5 to 8 years in prison for knowingly transmitting HIV.

17. Besides, confidentiality of the HIV testing process is not provided in full. The testing center in Tashkent, for example, is equipped with cameras.

18. Fearing above discussed, LGBT persons, even if they know of the positive HIV status, refuse to apply for ART treatment as it means that will have to undergo medical examinations that do not respect the right to confidentiality as medical personnel is obliged to inform other relevant authorities of newly identified cases of HIV-infection.

19. Here is one of the cases that happened in 2022 that illustrates how harmful Article 113 can be. The gay man diagnosed with HIV was deceived by the doctor, saying that homosexual and heterosexual people require different treatment and thus learned about his sexual orientation. This information was passed to the police, where the victim was required to disclose information about his sexual partners. He was promised that his partner would be charged for HIV transmission, and he would be held only as a witness. After the trial, the victim was charged under article 120, he was subjected to an anal examination — this measure is used in Uzbekistan during the investigation to obtain “evidence”. It was a humiliating procedure, during which a hemorrhoidal nodule, which the young man had, was considered to be a manifestation of such evidence. The court sentenced him to 1.5 years of imprisonment.

20. The gay sex worker came to the perpetrator’s apartment, he was beaten by three men and forced to tell his passport data to the camera and admit that he was a sex worker and gay. After that, he was forcibly tested for HIV infection, STIs and subjected to an anal examination procedure. He was required to hand over data about clients and other gay men. The court found the victim guilty under articles 113 and 120 and imposed 3 years of imprisonment.

⁹ <https://lex.uz/docs/97661#1630234>

Freedom of expression and association

- 21.** The Uzbek authorities also severely restrict the right to freedom of expression when it comes to expressing support for lesbian, gay, bisexual and trans* people and disseminating information about human rights violations against them. For example, one blogger was sentenced to three years in prison for peacefully exercising the right to expression, including expressing solidarity with LGBT people¹⁰.
- 22.** In a situation when political activism is strongly suppressed, Uzbek LGBT community cannot raise their voices in the country even using their basic freedom to form and join associations related to their sexuality and gender identity. There are following reasons for LGBT people in Uzbekistan being invisible and silenced in addition to fearing for their personal safety hampered by stigma and homo and transphobia in the society. Contrary to the international obligations of Uzbekistan¹¹, the registration of nongovernmental organizations takes a permissive character rather than nominal inclusion in the state registry. Meanwhile, groups of citizens united without state permission i.e. registration are subject to heavy penalties¹², arrest and up to 3-years imprisonment¹³.
- 23.** Criminalization of consensual homosexual relations affects freedom of association LGBT people in Uzbekistan. On one hand, there is literally no possibility for civil society organizations to conduct advocacy work on combating homophobic stereotypes and stigmatization of LGBT people due to heavy restrictions on freedom of associations and speech in Uzbekistan. On the other hand, LGBT people cannot even apply for registration of LGBT organization as it would mean they will have to declare their sexuality as the registration process requires providing list of founders with full details of each person. Particularly, article 22 of the NGO Law lists documents that need to be submitted for registration, including full personal details of persons involved with NGO creation.

¹⁰ <https://www.iphronline.org/uzbekistan-miraziz-bazarov-slander.html>

¹¹Article 22, ICCPR, signed by Uzbekistan in 1995.

¹²Article 239 Code of Administrative Liability of Uzbekistan

¹³Article 202, Code of Administrative Liability of Uzbekistan and Article 216, Criminal Code

24. Registered NGO in Uzbekistan are also highly restricted in terms of the issues they can raise. Primarily, they are obliged to work within the boundaries of their Charter under the monitoring of Ministry of Justice as a registering body; otherwise, they are subjected to heavy penalties¹⁴. The law also provides Ministry of Justice with powers to control funding received by nongovernmental organizations: prior to grant proposal submissions, NGO are obliged to seek permission of a registering body¹⁵. In addition, registered NGO in Uzbekistan must have Ministry of Justice's permission and provide access to any event conducted¹⁶. Consequently, there is no possibility for registered NGO to open up the discussion on combatting homophobia without the consequences of losing registration, being not allowed to work further or being prohibited from accessing external funding.
25. Currently, LGBT people live in the environment when government is reluctant to abolish the criminal persecution of consensual homosexual intercourse and it is impossible for LGBT activists to register NGO and openly advocate for their basic rights and freedoms and combat homophobia. LGBT activists are being trapped in a circle of violence where on one hand they are under high risk of imprisonment and on the other hand, they have no voice to advocate for their freedoms and non-discrimination.

Hate crimes

26. Uzbekistan has no comprehensive anti-discrimination legislation that specifically prohibits discrimination on the grounds of sexual orientation or gender identity. There are no initiatives specifically aimed at counteracting such discrimination, nor are there government programmes or initiatives to promote tolerance towards LGBT people. While domestic legislation punishes incitement to ethnic, racial or religious hatred, there are no legal provisions against hate crimes on the basis of homo- or transphobia.
27. In National Report on the Violation of the Rights of Gays, other MSM and trans* people in Uzbekistan 2022, ECOM documented 80 cases of violations of the rights of

¹⁴ Article 239 Code of Administrative Liability of Uzbekistan

¹⁵ Article 8, Law on Nongovernmental Noncommercial Organizations of the Republic of Uzbekistan

¹⁶ Ibid.

LGBT people from 8 regions of Uzbekistan and in the Republic of Karakalpakstan. Among the victims were 94 gay or other men who had sex with men, 3 trans* women, and 1 bisexual woman. Also, 1 heterosexual man and 2 heterosexual women faced rights violations due to political persecution or their association with the LGBT community.

28. The main violators of the rights of LGBT people, according to the report, were representatives of law enforcement agencies - in 23 cases, in 22 cases the violations were committed by relatives of the victims, and in 19 cases by neighbors and acquaintances of the victims. In 14 cases hate groups were organized to target LGBT people, and in 12 cases LGBT people themselves violated the rights of the community, most often with the purpose of extortion.

Conclusion

29. Uzbekistan has ratified most of the primary UN documents in the field of human rights, but has not brought national legislation in line with international law. Although the preamble of the Constitution of the Republic of Uzbekistan states that the country recognizes the primacy of universally recognized norms of international law, Uzbekistan still refuses to decriminalize homosexual relations between men.
30. Lesbian, gay, bisexual and trans* people in Uzbekistan live in stigma and marginalization on a daily basis. They have to face extreme levels of homo and transphobia institutionalized by Government policies. Their access to healthcare, safe and non-discriminatory education and employment is exacerbated if their sexuality is disclosed.

Recommendations

Member States Should Urge the Uzbek Government To:

31. Abolish Article 120 of the Criminal Code of the Republic of Uzbekistan and stop persecuting LGBT people, ensuring their rights and freedoms under international law;
32. Investigate extortion, intimidation, and torture of LGBT people by law enforcement agencies; carry out planned preventive work to eradicate discrimination against LGBT people in law enforcement agencies;

- 33.** Guarantee safe access to HIV/AIDS prevention programs and health care services without any discrimination based on sexual orientation or gender identity;
- 34.** Ensure unimpeded registration of NGOs working to assist LGBT people in Uzbekistan; ensure that international human rights organizations can work unhindered and have access to vulnerable groups;
- 35.** Enact legislation on hate crimes based on sexual orientation or gender identity and thoroughly investigate and prosecute all acts of violence against vulnerable groups, including lesbian, gay, bisexual, transgender and intersex persons.