

The Universal Periodic Review to OHCHR

Country: **Norway**

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Submitted by: LLH – The Norwegian LGBT association, ILGA-Europe – the European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association.

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1. Overview of the situation of LGBT persons in Norway

The majority of Norwegians are rather positive towards the LGB-population. When it comes to transpeople, most of the population has a lack of knowledge. This is likely to be the reason why a higher percentage are negative towards this group, than towards LGB people. Results from the first public opinion poll showed that the Norwegian society is still partly transphobic. The results show that 11-33% of the population has a negative attitude towards transgender persons. Men are more negative than women, and the more a person is in favour of traditional gender values the more negative his or her attitude is towards transgender persons.¹ In coming years LLH, together with many others, will keep up the work on rising the knowledge within the Norwegian population. We are hoping for continuing funding from the government to do so.

1 Anderssen, Norman and Slåtten, Hilde: *Holdninger til lesbiske kvinner, homofile menn, bifile kvinner og menn og transpersoner (LHBT-personer)*, University of Bergen, department of social psychology 2008

LGBT matters have been high on the agenda in the Parliament and Government over the past few years.

2. Equality and protection against discrimination

When it comes to equality laws and regulation, the parliament passed a new law in June 2013. It will take effect from 1st of January 2014. This law covers all aspects of life, except for family life and some parts of work within religious congregations. LLH is globally happy with the new law, but will be sure to oversee that the new law is followed and ensure that any violation is prosecuted.

Even though LLH has already monitored several cases where the Norwegian Equality and Anti-Discrimination Ombud (LDO) has ruled in favour of LGB-people, the new law will regulate more areas of the society, plus it now also includes gender expression and/or identity.

3. Hate crime

The Norwegian police force started registering hate crime in 2007. The numbers of reported incidents have been stable for the whole period, about 250 per years, out of which about 30 – 40 on the grounds of homophobia. Transphobic incidents have been registered under the sexual orientation category. LLH is working on getting gender identity/expression to become a recognised ground in itself.

The police made a survey in 2009 that showed that 2 % of the respondents had experienced hate crime. Norway has a population of about 5 million, 2 % would therefore be around 100.000 persons. This shows that there is an underreporting on this matter. Both the police force itself and the Ministry of Justice prioritise the work against this kind of crime. LLH gets funding to train the police on LGBT sensitivity and to raise awareness on the subject within the LGBT community.

We will keep up our work, hoping that more people report, this so that LLH and the police gets more knowledge on the matter, in order to improve the work against LGBT-phobic crimes.

4. Right to marry and to create a family

When it comes to the right to marriage, it is still not possible to get married in the church in Norway. We are awaiting new regulations within the former state church of Norway (Lutheran), where the majority of the Norwegian population are members. Other than that, same sex couples have the same rights to marry as others. Lesbian

couples have the same right to get help with ART (assisted reproductive technology) as others, same sex couples also have the same right to adopt.

5. Right to asylum

In 2012 The Norwegian Supreme court said that LGBT persons, seeking asylum in Norway, should not be returned to their home country if they would have to hide their sexual orientation or trans personality in order to avoid persecution. This resulted in new regulations in The Norwegian Directory of Immigration (UDI). Since the Supreme Court ruling and after the adoption of the new regulations, we have seen that in some cases it has become harder for asylum applicants to prove ones sexual orientation or trans personality. This suggests that the Norwegian Asylum Authority would now tend to use the credibility issue to increase the number of refused cases, which they used to do before by means of the “discretion requirement” reasoning. In both cases, it would be worth screening the existing practices to determine whether the arguments used are always founded or if they are sometimes used as pretexts.

7. Transgender people’s rights

When it comes to the rights of trans people we have a couple of major concerns. First of all there is still a requirement that a person undergoes a complete castration in order to get the correct legal gender. Here we want a new model, where the individual itself can decide how much and which treatment(s) he/she wishes to undergo, without this having implications on the possibility to have his/her legal gender corrected. A model like the Argentinian ‘Ley de identidad de genero’ is the desired objective according to the LGBT movement and LLH.

The Norwegian Health Directorate is of the opinion that the law on sterilisation does not apply to transgender and transsexual persons, as the sterilisation or castration is part of the medical (and surgical) treatment of transsexuals.² This is not in line with the opinion of the UN Special Rapporteur on Torture, who states that human rights also apply to medical intervention. Sterilisation can not be defended as being a medical necessity for transgender persons (para 13 and 32). The Special Rapporteur addresses the practice of often unwanted sterilization as a prerequisite to enjoy legal recognition of the preferred gender identity calls on the state parties to repeal any intrusive or irreversible treatment, including involuntary sterilisation (para 78 and 88) ³

2 Health directorate letter to Ministry of Health and Care services on the treatment services for transsexuals and trans persons 01.10.2012/. Ref. 10/5482

3 Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, UN Human Rights Council 1. February 2013, A HRC/22/53

8. Transgender people's access to health care and rights to affirming treatment

There is a big problem that Norway only has one centre that legally offers treatment to transgender people, including both hormonal and surgical treatment. We want this decentralized and we strongly advise that the government makes it possible for trans people and patients to get a second opinion, which at the moment is impossible due to this monopoly of treatment at the National hospital (Rikshospitalet).

Research estimates that there are 19.000 – 20.000 transgender persons in Norway, but only a small proportion of these get access to trans specific health care. The National Hospital gets 100-120 applications each year, out of which 75-90 are rejected.⁴ At the moment the ones that get rejected have no possibility to have this reviewed somewhere else.

4 Janneke van der Ros: *Alskens folk. Levekår, livssituasjon og livskvalitet for personer med kjønnsidentitetstematikk*. Likestillingssenteret 2013