

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
113.44 Consider revising relevant acts restricting the freedom of expression and media in order to ensure that they conform with international human rights standards (Slovenia)	Noted	14.3 Freedom of opinion and expression Affected Persons: LGBT Human rights defenders	In 2015, following his criticisms online related to the anti-LGBT policies of the Sultan , Aziq Azman was barred from travel outside the country and was investigated by Brunei’s Keselamatan Dalam Negara (Homeland Security Ministry), after which the matter was resolved and he was allowed to travel. In 2017, the Ministry of Religious Affairs re-opened the case and Aziq Azman was formally charged with “contempt of Syariah Justice” and “opposition of the Sultan’s Titah (Speech)” under the Syariah Court. Debating that the case was settled with Homeland Security, the charges were formally filed into the Syariah Court system and his passport was blacklisted and banned from travel outside of the country again. The presiding judge then offered an out-of-court settlement that the defendant attend religious counseling, and having completed said counseling was told after the last session on the 28th of April 2018 that his case would be reviewed in two weeks time. As of July 2018, the defendant’s remains being banned from his right to travel, and has been told to not contact the prosecutors and to “hold patience”. <sup>1</sup>

<sup>1</sup> Based on the report by Aziq Azman to ASEAN SOGIE Caucus received on 2 July 2018. The case is also described in other reports, such as in: Destination Justice (2018). Revealing the Rainbow: The Human Rights Situation of Southeast Asia’s LGBTIQ Communities and Their Defenders.

<p>113.69 Repeal or amend those sections of the Penal Code that prevent LGBT persons from having equal rights (Netherlands)</p>	<p>Noted</p>	<p>8 Equality &amp; non-discrimination Affected Persons: LGBT Persons</p>	<p>In Brunei Darussalam, the Syariah Penal Code of 2013 criminalizes consensual same-sex relations and gender non-conformity. The law penalizes acts such as “liwat” or same sex between a man and another man; and “musahaqah” defined as “physical activities between a woman and another woman. “Liwat” is defined as sexual intercourse between a man and another man or between a man and a woman, other than his wife, done against the order of nature that is through the anus. The said criminal act is punishable by stoning or whipping with 100 strokes. “Musahaqah” refers to “physical activities between a woman and another woman which would amount to sexual acts if it is done between a man and a woman, other than penetration”. A person who committed “musahaqah” will be penalized with imprisonment, fine of not more than 40,000 Brunei dollars, and whipping of not exceeding 40 strokes. Gender non-conformity is also penalized. Section 198 of the law criminalizes “any man who dresses and poses as a woman or any woman who dresses and poses as a man in any public place without reasonable excuse is guilty of an offence and is liable on conviction to a fine not exceeding \$1,000, imprisonment for a term not exceeding 3 months or both.”</p> <p>It was reported that a person named Roslani Hj Metasan was arrested in the evening of 17 October</p>
---	--------------	---	---

			<p>2014 for wearing women’s clothes and “improper conduct”, violating Section 198 (1) of the <i>Syariah</i> Penal Code of 2013.<sup>2</sup> The arrest took place within the context of joint operation “<i>Sepadu Cegah Jenayah</i>”, launched that year by the religious enforcement officers and the Royal Brunei Police Force (RBPF). The prosecutor who handled the case said to the media: “[i]f this is not dealt with, it can lead to the spread of social disorder such as homosexuality, free sexual relations, drug abuse and so on”.<sup>3</sup> Such statement reflects social stigma towards transgender persons, i.e. associating gender non-conformity with “drug abuse”, and reflects a lack of understanding of differences between one’s sexual orientation and gender identity.</p>
--	--	--	---

---

<sup>2</sup> Ak Md Khairuddin Pg Harun (11 March 2015). “Brunei Civil Servant Fined \$1,000 for Cross-dressing”. Brunei Times. Retrieved from <https://btarchive.org/news/national/2015/03/11/bruneian-civil-servant-fined-1-000-cross-dressing>.

<sup>3</sup> Ak Md Khairuddin Pg Harun (11 March 2015). “Brunei Civil Servant Fined \$1,000 for Cross-dressing”. Brunei Times. Retrieved from <https://btarchive.org/news/national/2015/03/11/bruneian-civil-servant-fined-1-000-cross-dressing>; “Crossdresser detained in ‘Sepadu Cegah Jenaya’” (August 16, 2016). Brudirect.com. Retrieved from <http://www.brudirect.com/news.php?id=11708>.