



## SITUATION OF LGBTI PERSONS IN LITHUANIA

### Brief Assessment of the Implementation of the Cycle 2 of the UPR:

During the 2nd Cycle, Lithuania received 22 SOGIESC recommendations and accepted 20 of them. Protection of LGBTI individuals in Lithuania, despite several positive developments, remains highly compromised. No major positive change in the field of LGBTI Human rights was identified in 2020.

#### **Comprehensive national action plan on human rights**

Recommendations Nos 100.37-100.39, 100.81

Currently the Lithuanian Government has no comprehensive strategy on eliminating discrimination on the ground of sexual orientation and gender identity. Action Plan for Promoting Non-discrimination 2017–2019 and Action Plan for Promoting Non-discrimination 2021-2023, despite being key policy documents for countering discrimination, do not sufficiently address the specific needs of LGBTI individuals. In fact, the latter document does not include a single LGBTI-specific measure with specific measurable progress indicators.

#### **Legislation and policy measures to counter discrimination based on sexual orientation and gender identity**

Recommendation Nos 100.75-100.76, 100.78

Transgender individuals remain at a significant disadvantage due to the lack of gender identity and/or gender expression among the protected grounds secured in the Law of Equal Opportunities. However, discriminatory provisions that banned transgender individuals an access to certain regulated professions (of legal and medical field) were lifted in 2019.

#### **Inclusive concept of partnership**

Recommendation No 100.92

Lithuania has not yet adopted a gender-neutral partnership institute.

#### **Legislative framework to provide recognition and protection for transgender persons**

Recommendation Nos 100.80, 100.93

Article 2.27 of the Civil Code establishes that "In unmarried natural person of full age enjoys the right to the change of designation of sex in cases when it is feasible from the medical point of view", the enabling legislation has not been adopted, thus leaving transgender individuals with no access to administrative LGR procedure.

### **Measures to combat hate crimes and hate speech related to sexual orientation and gender identity**

Recommendation Nos 100.73-100.74, 100.79

After European Court of Human Rights judgment in *Beizaras and Levickas v. Lithuania*, where Lithuania lost a case regarding institutional failure to investigate homophobic hate-crimes, the state took several progressive institutional measures, e.g. an inter-sectional working group was established by a decree at the Ministry of Interior in 2020. However, some older procedures remain stagnant. Although the exact motives of the crime are unknown, in 2018 LGL entrance was set on fire, and pre-trial investigation was initiated but soon it was suspended indefinitely.

### **Law on the Protection of Minors against the Detrimental Effect of Public Information**

Recommendation Nos 100.87-100.91

The amendment of the Law on Protection of Minors from the Detrimental Effects of Public Information modifying the Art. 4.2.16 so it could not be used to discriminate on the grounds of sexual orientation was registered in 2017, but no further action was initiated. Amendments to aforementioned law were adopted on January 14, 2021, although they did not include any revisions to the Art. 4.2.16.

## **National framework:**

On January 11, 2019 the Constitutional Court of the Republic of Lithuania issued a judgment ruling that a spouse in a same-sex union concluded abroad is eligible for a residence permit based on the grounds of family reunification, although a comprehensive legislation concerning the legal recognition of same-sex partnerships is yet to be initiated.

Although positive steps have been taken, the legal framework in Lithuania still excludes same-sex families from legal protection, does not provide administrative procedure for legal gender recognition, does not recognize gender identity and expression as grounds of non-discrimination, and upholds laws that limit freedom of expression and access to information on sexual orientation and gender identity.

Social situation also remains poor. LGBTI Survey (2019) findings released by the European Union (EU) Agency for Fundamental Rights (FRA) revealed that Lithuanian respondents admitted always (14 %) or almost always (20 %) feeling downhearted or depressed, while 55 % of Lithuanian respondents personally felt discriminated against in 8 areas of life due to their LGBTI identity, these being some of the highest numbers among all EU countries. 44% of Lithuanian survey participants said that they avoid holding hands with their same-sex partner in public. Results of 2017 LGL nation-wide LGBTQI high school student survey revealed that 82% of respondents were bullied due to their sexual orientation and/or gender identity in the last year. 50% of survey respondents also declared that their teachers either did not respond appropriately to homophobic bullying, if they responded at all.

## **Cases, facts, comments, impact**

### **Lack of LGBTI family rights recognition**

Lithuania remains the only Council of Europe member state reserving the existing general partnership provision to different-sex persons. According to article 3.229 of the Civil Code, its provisions shall regulate the relations in property of a man and a woman who, after registering

## Challenges

their partnership in the procedure laid down by the law, have been cohabiting at least for a year with the aim of creating family relations without having registered their union as a marriage (cohabitees).

*The Law on Family Strengthening* includes a concept of complementarity of maternity and paternity which conflicts with LGBTI individuals' rights to private and family life, equality and non-discrimination (Art.17, Art. 26 of ICCPR) as it is defined as essential need of a child to have two parents of different sexes.

Same-sex marriage concluded abroad cannot be registered in Lithuania, LGBTI families are also not included in state or municipal family support systems, and joint adoption is not allowed for same-sex couples. Lack of LGBTI family rights recognition effectively restricts same-sex couples in daily situations, e.g. receiving information about partner's health in a hospital is complicated because the partner is not legally recognized as a family member, receiving a joint-loan. Surviving de facto partner cannot inherit by the rules of intestacy, limited access to co-insurance and various compensations in case of death, the right to family leave, no access to subsidies for young families, etc.

## Anti-Gay Propaganda Legislation

*The Law on the Protection of Minors against the Detrimental Effect of Public Information* stipulates that "public information shall be attributed to information which has a detrimental effect on minors [...] which expresses contempt for family values, encourages the concept of entry into a marriage and creation of a family other than stipulated in the Constitution and the Civil Code".

No legislative procedure was initiated regarding the Law on Protection of Minors from the Detrimental Effects of Public Information to ensure Art. 4.2.16 is not used to discriminate on the grounds of sexual orientation. Amendments to this law were adopted in January 14, 2021, although it did not address aforementioned article.

Although Lithuania accepted recommendations on this issue during the last cycle, no concrete follow-up action was taken. The law continues to be applied in a discriminatory manner with the view of limiting LGBTI content: in 2019 National Broadcaster documentary on same-sex parenthood was suspended, in 2021 LGL received a report from a student whose thesis was rejected due its topic being related to education on LGBTI.

**Lack of administrative procedure for Legal gender recognition; lack of gender identity and (or) gender expression among the legally protected characteristics.**

Article 2.27 of the Civil Code establishes that “[a]n unmarried natural person of full age enjoys the right to the change of designation of sex in cases when it is feasible from the medical point of view”. However, the enabling legislation has not been adopted, thus leaving transgender individuals with no option of administrative LGR procedure.

Legal categories of “gender identity” and (or) “gender expression” are not recognized in the current Lithuanian legislation. Gender identity is not included as the protected ground under the proposed recast of the Law on Equal Treatment.

In November 2017, the group of 31 MPs in the Lithuanian Parliament registered a legislative proposal aiming to ban LGR together with related medical procedures, which goes directly against recommendation Nos 100.77, 100.86, 100.93.

The protected ground of sex is not sufficient, since proving discrimination on the grounds of sex in cases where discrimination is related exclusively to gender identity oftentimes can simply be impossible.

**Lack of the strategic approach towards eliminating discrimination on the ground of sexual orientation and gender identity; no key policy document expressly reflects on SOGI-related issues and provides an adequate course of action.**

Currently the Lithuanian Government has no comprehensive strategy on eliminating discrimination on the ground of sexual orientation and gender identity.

Both Action Plan for Promoting Non-discrimination 2017–2019 and Action Plan for Promoting Non-discrimination 2021–2023, despite being key policy documents for countering discrimination, do not sufficiently address the specific needs of LGBTI individuals. While the latter document mentions LGBTI-related social situation in its preamble, it does not include a single LGBTI specific measure.

No measurable indicators for achievements related with situation of LGBT persons are provided within the aforementioned policy documents. E.g., the Action Plan (2017–2019) included the publication of research on the situation of transgender persons in Lithuania (which was in fact an output of European Commission funded project) as indicator of implementation of a measure instead of number of implemented recommendations in the National Report.

The fact that all activities related to LGBT issues appear to be dependent on external funding reveals the lack of strategic and sustainable approach towards eliminating discrimination based on SOGI.

## Recommendations

- 1 Introduce relevant legislation that recognizes **family rights and equality of same-sex couples**.
- 2 Develop and adopt **comprehensive inter-sectional policy documents to combat discrimination against LGBTI people** which establish specific measures to be conducted by designated government institutions and that specifically include measurable indicators for monitoring progress.
- 3 Introduce **interim measures** that would enable to register same-sex marriages or partnerships concluded abroad and allow to legally change names on such basis.
- 4 Secure **gender identity and (or) gender expression as a protected characteristic** in the Law of Equal Treatment and other relevant legislation.
- 5 Initiate legislative process with the aim of adopting efficient and accessible **administrative procedures for obtaining legal gender recognition**.
- 6 Revise Article 4.2.16 of the Law on the Protection of Minors to ensure it is not applied to censor LGBTI-related public information and that any limitations on **freedom of expression** satisfy the criteria of lawfulness, necessity and proportionality and are applied without any discriminatory perception.

## Advanced questions

- 1 **Netherlands to Lithuania:** Is the government of Lithuania willing to look into the possibility to further incorporate a comprehensive Inter-institutional Action Plan on Non-Discrimination of LGBT-People?
- 2 **Sweden to Lithuania:** Could the Government of Lithuania please elaborate on when Lithuania will adopt comprehensive national legislation on gender reassignment?
- 3 Could the Government of Lithuania please elaborate on what steps have been taken in the last 3 years to ensure that LGBTI-persons are not subjected to harassment or discrimination, de jure or de facto, in Lithuania?
- 4 **Germany to Lithuania:** Since the last UPR Lithuania has adopted several legislative initiatives which may restrict the freedom of expression and may have the effect of discriminating against LGBTI individuals. **How does Lithuania guarantee the protection of LGBTI persons and which concrete measures does Lithuania plan to encourage tolerance and non-discrimination of LGBTI, inter alia through respective school curricula?**

### CONTACT INFORMATION

National LGBT Rights organization LGL, [www.lgl.lt/en](http://www.lgl.lt/en)  
Address: V. Šopeno St. 1-1, Vilnius, 3211, Lithuania.

Director **Vladimir Simonko**, [vladimir@gay.lt](mailto:vladimir@gay.lt)  
Contact person: **Monika Antanaitytė**, [monika@gay.lt](mailto:monika@gay.lt)