



SECRETARIAT

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Committee on Equality and Non-Discrimination

Minutes¹ of the hearing on Combating rising hate against LGBTI people in Europe held by videoconference on 27 November 2020

¹ Minutes of the hearing approved and declassified by the Committee on Equality and Non-Discrimination at its meeting on 26 January 2021.

In the framework of the report currently in preparation on *Combating rising hate against LGBTI people in Europe*, Rapporteur: Mr Fourat Ben Chikha (Belgium, SOC), the committee held a hearing with the participation of:

- Victor Madrigal-Borloz, United Nations Independent Expert on sexual orientation and gender identity;
- Teodora Ion-Rotaru, Executive Director, ACCEPT Association, Romania;
- Tina Kolos Orbán, Project Manager, Transvanilla Association, Hungary;
- Miltos Pavlou, Project Manager – Social Research, European Union Agency for Fundamental Rights (FRA).

Victor Madrigal-Borloz, United Nations Independent Expert on sexual orientation and gender identity, welcomed the opportunity to engage in debate with a regional institution working in the fields covered by his mandate. He aimed to engage with the widest range of State and non-State stakeholders in this context. At global level, key issues of concern to LGBT people that he had observed during the past three years of his mandate included criminalisation, legal gender recognition, discrimination, pathologisation and its impact on social mores, social inclusion, standards for data collection, and the particular impact of Covid-19 in LGBT populations around world. The working theory of his mandate was that stigma, violence and discrimination were fuelled by institutional and societal drivers which could be framed through the notions of crime, illness and sin. The idea that LGBT lives were somehow antisocial, disordered and sinful had carved deep grooves in the consciousness of societies throughout the world. Even though these ideas were being dismantled, their persisting influence could still be seen in the thinking of the legal and medical professions and the clergy. Anti-LGBT and anti-gender rhetoric and measures were a feature of local government throughout much of Eastern Europe. He had been able to observe this in person in his visits to Georgia and Ukraine as well as in the plethora of individual complaints he had received. He wished to draw attention in particular to three matters of joint concern. First, anti-gender rhetoric had spread throughout the world including Europe, especially Eastern Europe. It tended to question the very existence of gender as a category of protection under international human rights law, and to challenge the notion that gender is a social construct and not based on a binary. Yet these features were crucial to understanding the lived reality of gender diverse and trans persons as well as to understanding sexual and reproductive rights, and were closely connected to notions of power and control over the wombs of persons who have wombs. Trans bodies were often the first to be attacked and disenfranchised in this context. Limitations on education with respect to sex, gender and reproductive rights were also of deep concern here. Second, messages of hatred against LGBT persons in public debate, demonstrations and any part of public space were becoming worryingly the norm in vast areas of Europe, especially Eastern Europe. Such rhetoric had acquired legitimacy and political acceptance, and populism espousing it was achieving positive results in electoral processes. This was giving considerable credit to offensive messages calling for the suppression of non-heteronormative sexual orientations and non-cisnormative gender identities and for the limitation of the human rights of LGBT persons. It was also, worryingly, disseminated through the media, internet, video games and music. Third, his recent work on so-called conversion therapy showed that it was based on the same deep grooves mentioned earlier. It was deeply harmful but continued to be carried out throughout Europe, without geographical limitation.

Teodora Ion-Rotaru, Executive Director, ACCEPT Association, Romania, said that the situation regarding the anti-gender movement and hate speech addressed to trans people and the wider LGBTI community in Eastern Europe, including Romania, was deeply worrying. Homophobic and transphobic hate speech had a long tradition in Romania, which had only decriminalised sexual conduct between persons of the same sex in 2001. Hate speech and hate crimes against LGBTI people in Romania had been occurring at increasing rates over the last 20 years. The three-year long campaign for a referendum to ban same-sex marriage in the Romanian constitution had mobilised hate speech and hate crimes against LGBTI people at unprecedented rates, which unfortunately did not figure in official statistics. The judgment of the European Court of Human Rights in the case of *M.C. and A.C. v. Romania* (application 12060/12) had shown that although incitement to hatred and discrimination was a criminal offence, improved data collection measures, police training and methodologies for investigating such offences were needed, for all minority groups in Romania. More recently, as in much of Eastern Europe, a crisis point had been reached regarding the notion of “gender ideology” peddled by the anti-gender movement. In June 2020, the Romanian parliament had passed a law aiming to erase any discussion of gender from all levels of education, from early childhood to university and training of the medical, judicial and prosecutorial professions. This legislation had been referred to the Constitutional Court by the President and the latter’s judgment was pending. LGBTI associations, academics and students, wider civil society and international human rights organisations had also protested against it. Hate based on sexual orientation and gender identity had other harmful consequences, hampering for example the access of trans people to healthcare, education and legal gender recognition. This had a huge impact on persons whose lives were already very difficult in a country like Romania. Fewer than 70 people had benefited from legal gender recognition in Romania in the last 20 years, although around 100 000 trans people were estimated to live in Romania. ACCEPT was in regular contact with around 2000. Only a handful of doctors in Bucharest provided trans-specific services. Hate speech intensified the misconception that being trans was a crime or a pathology. As a result, trans people were disregarded and excluded from society, education, access to services and even

access to justice. This was part of a concerted dynamic by illiberal forces trying to diminish democracy by targeting LGBTI people, and particularly trans people. The referendum campaign had had a hugely negative impact on the LGBTI community. At the same time, the fact that the threshold for a valid result was not reached showed that Romanian society was changing and that a high proportion of heterosexuals understood far more than previously about diverse sexual orientations and gender identities. Political leaders, parliaments and governments nonetheless continued to drag their feet on equality issues and encourage homophobic and transphobic sentiments, even though these did not resonate in society as they might wish. It was important to equip the countries concerned to fight hate speech and hate crimes very strongly in the coming years.

Tina Kolos Orbán, Project Manager, Transvanilla Association, Hungary, said that during the state of emergency declared in response to the pandemic in Hungary, the government had proposed constitutional amendments to change the mutable category of sex/gender to an immutable one. Although this was not framed as targeting trans people, the effect was that trans people could no longer change their name or obtain documents reflecting their gender, although this had been possible in Hungary since 2004. Many trans people were now desperate to leave Hungary, and the whole community was affected as every person received the message that their government did not support them. Depathologisation and self-determination were not even on the cards. Under the new state of emergency declared during the second wave of the pandemic, further proposals had been introduced to reform human rights structures hastily in Hungary. The constitution and civil code had been altered, with the clear aim of restricting adoption to married (heterosexual) couples only, and requiring children's right to their identity to be interpreted in line with a "system of values based on Christian culture". While the meaning of the latter was unclear, the government appeared to wish to impose on all its own understanding of sex and gender. Gender non-conforming children would not have access to the treatment they needed and legal gender recognition would no longer be accepted. The Council of Europe's Commissioner for Human Rights and Venice Commission had highlighted that such far-reaching proposals should not be introduced during a state of emergency. Public attitudes were hard to assess: opinion polls showed Hungarian society to be highly homophobic and transphobic but on an individual level, experiences could be different. Government discourse could however strongly affect public sentiments and there was a real risk that discrimination, harassment and violence against LGBTI people would increase. There was already a direct impact on persons who were transitioning and could not obtain ID corresponding to their gender. Hungarians were generally respectful but anything that challenged traditional family values was painted as a threat, to be stigmatised and banned. Anti-gender discourse, opposing so-called "gender ideology" as an attack on nature or normality, was growing stronger throughout the region. Hungary had not ratified the Istanbul Convention and indeed the parliament had expressly voted against it earlier in the year. Politicians were increasingly engaging in this discourse. The situation regarding trans rights could only be understood in this broader context of the war on gender, and women's rights would be affected too. These were deliberate attempts to deceive the public and influence international institutions, which must not be allowed to succeed. Life was difficult for trans people everywhere and parliamentarians must combat hatred against trans people in their own country, but also support the work of trans rights defenders in Hungary, who never had the opportunity to engage in dialogue directly with the government.

Miltos Pavlou, Project Manager – Social Research, European Union Agency for Fundamental Rights (FRA), presented the results of the survey conducted by FRA in 2019 on LGBTI persons' experiences in the EU, Serbia and North Macedonia, which contained many useful insights for the Committee's work. As its title suggested, there was a long way to go to LGBTI equality. Progress was being made, but slowly and in the face of many obstacles and setbacks; problems had to be tackled lucidly. The survey was the largest ever conducted, with 140 000 replies received online. While the largest group of responses came from gay men, other groups were better represented than in other similar surveys. The most acute problem that emerged was fear, violence and victimisation of LGBTI persons. Trans and intersex persons in particular experienced high levels of victimisation. The overall results should not mask the fact that there were many differences between countries and depending on the issues covered. Violence targeting LGBTI people existed in many Eastern European countries but also in countries that had enacted specific criminal legislation against it. As regarded measures that helped to tackle issues and promote equality and respect, the discourse of public figures was extremely important, and could have a positive or negative influence. Where the situation had improved in recent years, it was often thanks to the visibility of LGBTI people in public life and support from public figures, bolstering respect in society; in such cases, legislation had been not only enacted but also effectively enforced. Conversely, where respondents pointed to a deteriorating situation, this was mainly due to negative public discourse from political figures and parties, which caused real problems in people's lives; it was also sometimes due to a lack of effective legislation, weak civil society and/or poor education. Concerning violence, harassment and discrimination, it was noteworthy that too many LGBTI people remained afraid to be visible, avoiding holding hands in public. Bisexual men and people with non-conforming gender expression were most likely to avoid certain places for fear of assault. Physical attacks mostly affected trans and intersex people. Many victims did not report attacks to police due to fear of a homophobic or transphobic response, although the police should protect them. Many LGBTI were also afraid of disclosing their sexual orientation or gender identity

to their family – a critical issue during lockdowns imposed under the Covid-19 pandemic. There were striking differences between countries' effectiveness in combating homophobia and transphobia, as perceived by LGBTI persons. Figures were very low in Poland, Hungary, Italy, Bulgaria, Latvia, Croatia, Romania and the Slovak Republic; the highest levels of trust were expressed in Malta, Luxembourg, Ireland and Denmark. In countries such as Malta and Ireland, which had previously been far less progressive, public debate around shared values, such as being able to marry the person you love, had helped building understanding. The situation was not wholly negative: LGBTI persons were today far more willing to claim public space, and discrimination had decreased. FRA recommended following good practices, such as including sexual orientation and gender identity as aggravating bias motivations in the criminal law; improving the reporting of violent offences by enhancing trust in the police and properly transposing the EU Victims' Rights Directive; training public officials; and publishing the list of LGBTI associations that provided support to victims. Although outside the scope of EU competences, improving education for both pupils and parents about LGBTI rights and why it was important for society to respect them was also crucial.

Mr Ben Chikha thanked the speakers for their contributions, which would be important for his report, and asked what role the church played in the anti-gender movement in Romania. **Mr Lacroix**, referring to his report on Alleged violations of the rights of LGBTI people in the South Caucasus region, asked whether there had been any contacts with the Azerbaijani authorities following the communication sent to them by the previous UN independent expert in October 2017, and how sources had been identified. He was also interested in the independent expert's recent findings on Georgia. He wondered whether the resurgence of religion and the conservative fight against secularism was favouring an increase in physical and verbal violence against LGBTI people. **Ms Fresko-Rolfo** asked whether the UN independent expert had received information or statistics about so-called "honour" crimes committed against LGBTI people.

Teodora Ion-Rotaru emphasised that religious people should not be confused with the politicised leadership of religious institutions. Many LGBTI individuals were also people of faith. The anti-gender movement was very much fostered by the leadership of churches in Romania. The Orthodox Church, with the support of neo-protestant and other religious groups, had invested great efforts in the referendum to ban same-sex marriage, but this did not reflect the view of the majority of religious people in Romania. Groups promoting the referendum and the recent bill to ban discussion of gender at every level of education had close ties with ultra-conservative political groups and with this type of Christian leadership, but also with US right-wing and extreme conservative groups that had a religious ethos. One should refrain from linking religious people with these movements, which were not faith-based but political movements that sought to gain capital by mobilising hatred against LGBTI people.

Tina Kolos Orbán said that in Hungary, perhaps because the population was not as religious as in other countries in the region, churches did not seem to be taking part in the anti-gender movement. Attacks were led by the government, the anti-gender movement and politicians, who took a nationalistic approach, characterising the fight for LGBTI equality as "attacks against the nation". The government was however increasingly placing education in the hands of the church rather than of the State or local authorities. This increased the power of religious forces to shape events in the country and the views of the population.

Miltos Pavlou underlined that although some groups were trying to capitalise on an issue that could be polarising, the majority of the population in Europe was favourable to supporting the rights of LGBTI people. The new LGBTI strategy of the European Commission recognised this and saw it as a strong argument for promoting equality. Even his grandmother could understand why everyone had to be able to marry the person they loved; progress could be achieved easily if one reinforced people's confidence. A comparison of the relevant EU Barometers of 1995, 2015 and 2019 showed that acceptance of same-sex marriage had increased in all EU countries over the years, including Poland. LGBTI people had to be supported to claim visibility; public officials simply needed to do their job on this. Training the police would not place a burden on them but should make their lives easier.

The Chairperson regretted that the internet connection with the UN independent expert had been lost but informed members that he would provide written replies to questions forwarded to him. She thanked all the speakers for their highly valuable contributions to the committee's work.

Annexe

Attendance list / Liste de présence

(The names of members present appear **in bold**. / Les noms des membres présents apparaissent **en gras**.)

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7.	Ms Konul NURULLAYEVA	Azerbaijan / Azerbaïdjan	Ms Parvin KARIMZADA
8.	Mr Fourat BEN CHIKHA	Belgium / Belgique	Ms Els van HOOFF
9.	M. Christophe LACROIX	Belgium / Belgique	Ms Darya SAFAI
10.	Mr Saša MAGAZINOVIĆ	Bosnia and Herzegovina / Bosnie-Herzégovine	Mr Mladen BOSIĆ
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16.	Mr František KOPŘIVA	Czech Republic / République tchèque	ZZ...
17.	Ms Victoria VELASQUEZ	Denmark / Danemark	Ms Kathrine OLLDAG
18.	Ms Vilja TOOMAST	Estonia / Estonie	ZZ...
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..... *Membre du Parlement européen,*
..... *Co-présidente de l'intergroupe antiracisme et discrimination (ARDI)*

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..... Racism and Intolerance (ECRI)
..... *Présidente de la Commission européenne contre le racisme et l'intolérance (ECRI)*

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..... Democracy through Law (Venice Commission)
..... *Membre suppléant de la Commission européenne pour la*
..... *démocratie par le droit (Commission de Venise)*

Mr / M. Victor MADRIGAL-BORLOZ United Nations Independent Expert on
..... sexual orientation and gender identity
..... *Expert indépendant sur l'orientation sexuelle et l'identité de genre, Nations Unies*

Teodora ION-ROTARU Executive Director, ACCEPT Association, Romania
..... *Directrice exécutive, Association ACCEPT, Roumanie*

Tina KOLOS ORBÁN Project Manager, Transvanilla Association, Hungary
..... *Responsable de projets, Association Transvanilla, Hongrie*

Mr / M. Miltos PAVLOU Project Manager Social Research
..... European Union Agency for Fundamental Rights (FRA)
..... *Chargé de projet – recherche sociale*
..... *Agence des droits fondamentaux de l'Union européenne (FRA)*

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PERMANENT REPRESENTATIONS / REPRESENTATIONS PERMANENTES

Mr / M. Kirill BUTIVSHCHENKO	Russian Federation / <i>Fédération de Russie</i>
Ms / Mme Iryna POSPIELOVA	Russian Federation / <i>Fédération de Russie</i>

NON-GOVERNMENTAL ORGANISATIONS / ORGANISATIONS NON-GOUVERNEMENTALES

Ms / Mme Bénédicte COLIN	Federation of Catholic Family Associations in Europe (FAFCE) / <i>Fédération des Associations Familiales Catholiques (FAFCE)</i>
Mr / M. Cianán RUSSELL	ILGA-Europe

COUNCIL OF EUROPE SECRETARIAT / SECRETARIAT DU CONSEIL DE L'EUROPE

Secretariat of the Committee of Ministers / Secrétariat du Comité des Ministres

Mr / M. Bjorn BERGE	Secretary to the Committee of Ministers / <i>Secrétaire du Comité des Ministres</i>
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DGI - Directorate General Human Rights and Rule of Law / Direction générale Droits de l'Homme et Etat de droit

Mr / M. Ziya Caga TANYAR	Democratic Institutions and Fundamental Rights / <i>Institutions démocratiques et droits fondamentaux</i>
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DGII - Directorate General of Democracy / Direction générale de la démocratie

Mr / M. Johan FRIESTEDT	Executive Secretary European Commission against Racism and Intolerance (ECRI) / <i>Secrétaire Exécutif Commission européenne contre le racisme et l'intolérance (ECRI)</i>
Ms / Mme Sophie KURT	European Commission against Racism and Intolerance (ECRI) / <i>Commission européenne contre le racisme et l'intolérance (ECRI)</i>
Mr / M. Mats LINDBERG	European Commission against Racism and Intolerance (ECRI) / <i>Commission européenne contre le racisme et l'intolérance (ECRI)</i>
Ms / Mme Maria TENOSHVILI	European Commission against Racism and Intolerance (ECRI) / <i>Commission européenne contre le racisme et l'intolérance (ECRI)</i>
Ms / Mme Eleni TSETSEKOU	Head of the Sexual and Gender Identity Unit / <i>Cheffe de l'unité de l'Orientation sexuelle et identité de genre</i>
Ms / Mme Carolina LASÉN-DÍAZ	Gender Equality / <i>Égalité de genre</i>

Directorate of External Relations / Direction des relations extérieures

Ms / Mme Maria OCHOA-LLIDO	Head of the Geneva Office / <i>Cheffe du Bureau de Genève</i>
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**Secretariat of the Congress of Local and Regional Authorities /
Secrétariat du Congrès des pouvoirs locaux et régionaux**

Ms / Mme Inge HANNON Current Affairs Committee / *Commission des questions d'actualité*

**SECRETARIAT OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE /
SECRETARIAT DE L'ASSEMBLEE PARLEMENTAIRE DU CONSEIL DE L'EUROPE**

Mr / M. Wojciech SAWICKI Secretary General / *Secrétaire Général*

Committees Directorate / *Direction des commissions*

Ms / Mme Marja RUOTANEN Director / *Directrice*

Communication Division / *Division de la Communication*

Mr / M. Angus MACDONALD Administrative Officer / *Administrateur*

Ms / Mme Nathalie BARGELLINI Principal Administrative Assistant / *Assistante administrative principale*

Ms / Mme Catherine BECARMIN Assistant / *Assistante*

**Committee on Political Affairs and Democracy /
*Commission des questions politiques et de la démocratie***

Ms / Mme Despina CHATZIVASSILIOU Head of the Secretariat / *Cheffe du Secrétariat*

Ms / Mme Silvia ARZILLI Secretary to the Committee / *Secrétaire de la commission*

Ms / Mme Nicola STEMPEL Administrative Assistant / *Assistante administrative*

**Committee on Equality and Non-Discrimination /
*Commission sur l'égalité et la non-discrimination***

Ms / Mme Penelope DENU Head of the Secretariat / *Cheffe du Secrétariat*

Ms / Mme Sarah BURTON Secretary to the Committee / *Secrétaire de la commission*

Mr / M. Giorgio LODDO Secretary to the Committee / *Secrétaire de la commission*

Ms / Mme Elodie FISCHER Secretary to the Committee / *Secrétaire de la commission*

Ms / Mme Solène FALK Project Manager / *Chargée de projet*

Ms / Mme Naouelle TEFIFEHA Assistant / *Assistante*

Mr / M. Martin McMILLAN Assistant / *Assistant*

Other participants / *Autre participants*

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..... European Parliament Anti-Racism and Diversity Intergroup (ARDI)

..... *Coordinatrice*

..... *Intergroupe Antiracisme et Diversité du Parlement européen (ARDI)*

Mr / M. Aslami SULEYMAN Head of Office to Ms Samira Rafaela (MEP)

..... *Chef du Bureau de Mme Samira Rafaela (MPE)*