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## **Submission of inputs on decriminalization of homelessness and extreme poverty by ECOM to the Special Rapporteur on the right to adequate housing and to the Special Rapporteur on extreme poverty and human rights**

**2023**

This communication was submitted by the 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 HIV prevention, treatment, care, and support for men who have sex with men and transgender people in Eastern Europe and Central Asia (EECA) region. The network has 76 members from 19 countries, stretching from Estonia to Tajikistan.

1. **Background and Context**

The EECA region has witnessed significant progress in recognizing the rights of the LGBT community in recent years. However, discrimination, violence, and marginalization persist, making LGBT people particularly vulnerable to extreme poverty. Stigma and prejudice within families, workplaces, and communities often result in social exclusion and economic hardships. Decriminalizing homelessness and extreme poverty addresses fundamental human rights and is a critical step in addressing the specific challenges faced by LGBT persons who experience homelessness and poverty. Here are some inputs on how the criminalization of homelessness and extreme poverty affects the whole community in the EECA region.

1. **Legal Framework**

LGBT community is often at a higher risk of homelessness and poverty due to family rejection, discrimination, and violence, particularly for transgender and gender non-conforming people. Most LGBT people face intersectional discrimination, encompassing sexual orientation, gender identity, HIV status, homelessness, economic well-being, engagement in sex work, and drug use. This compounded discrimination remains alarmingly high and pervasive. Adding to the complexity, certain politicians exploit and amplify this stigma for their own political advancement. Populist leaders often champion the criminalization of same-sex relationships, advocate for harsher penalties related to drug use and sex work, and push for the reimplementation or intensification of criminal sanctions for HIV transmission. This narrative extends its reach primarily in Central Asian countries, emphasizing Uzbekistan (Article 120 of the Uzbek Criminal Code)[[1]](#footnote-1) and Turkmenistan (Article 133 of the Turkmen Criminal Code)[[2]](#footnote-2), where same-sex relationships between men are criminalized. Criminalizing same-sex sexual relations between men in Turkmenistan and Uzbekistan is not just a legal matter but has far-reaching and devastating consequences for the lives of the LGBT community. Beyond the immediate threat of imprisonment, these laws create a hostile environment that perpetuates a cycle of poverty, exclusion, and suffering. After serving sentences, people often find themselves trapped in socio-economic uncertainty. The stigma associated with their criminal records makes it virtually impossible to find gainful employment, leading to severe economic hardship. Consequently, it impacts their access to housing, healthcare, and necessities. As a result, the LGBT community subjected to these laws faces systemic discrimination and exclusion from society, making it incredibly challenging to lead fulfilling and dignified lives. Recognizing that these laws violate individuals' fundamental rights and contribute to social inequality and human rights abuses is imperative.

Other crucial provisions related to changing the gender marker in identity documents for transgender people are pivotal for recognizing their rights and ensuring social and economic inclusion. The absence of this possibility to modify the gender marker impedes accessing employment opportunities among transgender persons in the EECA region, leading to higher vulnerability to poverty and homelessness. This legal restriction creates insurmountable obstacles in the job market, subjecting transgender job seekers to persistent systemic discrimination, bias, and harassment at various stages of the hiring process. Even when they manage to secure employment, they often find themselves relegated to low-paying, precarious positions with minimal job security, perpetuating economic instability and, most critically, rendering them unable to secure stable housing. In Kyrgyzstan, the situation notably worsened following amendments to the Law on Civil Acts in 2020[[3]](#footnote-3), which further curtailed the ability of transgender individuals to amend their gender marker on official documents, exacerbating the discrimination and exclusion they already faced. The disturbing reports of persecution against LGBT individuals in Russia[[4]](#footnote-4), notably the denial of the right to change gender identity for trans persons, have alarming implications for the well-being and livelihoods of this vulnerable community.

The prevailing homophobia, transphobia, and deeply entrenched societal stigma foster an environment that tolerates and actively encourages discrimination and exclusion against LGBT individuals in the EECA region. Consequently, they find themselves outsiders of society, confronted by an elevated risk of experiencing poverty and homelessness. In Uzbekistan, ​​​​​​several channels collect and publish information about members of the LGBT community, as well as broadcast hate speech and calls for reporting about “identified gays” to law enforcement agencies[[5]](#footnote-5).

1. **Specific Concerns**

Discrimination, Vulnerability, and Violence: LGBT people frequently face discrimination in employment, housing, and healthcare, pushing them into cycles of poverty. Hate crimes and violence against them further exacerbate their vulnerability.

Socioeconomic Disparities: Economic disparities within the LGBT community are pronounced. Lower educational and employment opportunities lead to diminished income and social exclusion. Shelters are crucial for vulnerable women and minors who have experienced violence or have become homeless due to societal stigma. However, overall, the number of shelters available in countries in the region is alarmingly inadequate. It is essential to note that LGBT people facing domestic violence mostly do not receive the support they need. While states do provide support for domestic violence victims, there is often a gap in protection for groups such as LBTQ women. In their reply, Kyrgyzstan mentioned opening a municipal shelter for women who are victims of domestic violence and initiatives to prevent gender-based violence. However, it is concerning that the specific needs and challenges faced by LBTQ women are not addressed in these reports. This highlights a significant gap in the support and protection provided to the LGBT community, discouraging them from seeking shelter or assistance from social services because of fear of discrimination or harassment.

1. **Criminalizing begging**

In many EECA countries, begging is not typically considered a criminal offense for adults. However, it is crucial to emphasize that involving minors in begging, often described as child exploitation or child labor, is a criminal offense in many jurisdictions. It is done to protect the rights and well-being of children, as begging can be detrimental to their physical and emotional development. Legal frameworks and penalties can vary from one country to another, but they generally aim to prevent minors from being forced or coerced into begging. Moreover, while begging itself might not be criminalized, some countries in the EECA region have regulations or local ordinances that manage or restrict begging in specific public spaces. These regulations are usually intended to maintain order in public areas and ensure the safety and comfort of residents and visitors. For instance, Uzbekistan has changed its legislation, defining begging as actively requesting money and material assistance in various public places, including airports, train stations, parks, markets, and other locations. Article 188-3 of the Code of Administrative Responsibility[[6]](#footnote-6) stipulates fines or administrative arrest as penalties for begging. More severe penalties are imposed for engaging in begging by individuals who are minors, elderly, have mental illnesses, are disabled, or other vulnerable groups. Additionally, there are stricter penalties, including imprisonment, under Article 127-1 of the Criminal Code[[7]](#footnote-7), which applies after an initial administrative penalty for begging. Includes repeated or dangerous begging, organized begging groups, and coercion to use narcotics. It's important to highlight that Uzbekistan's approach extends beyond legal penalties. In 2018, over 5,000 people in Tashkent, including women with children and older, were identified as begging and sent to rehabilitation centers.

1. **Escalating Poverty**

Criminalization measures frequently result in fines and legal fees that many homeless members of the LGBT community cannot afford, initiating a distressing cycle of debt and deepening poverty. Securing housing is a substantial challenge for transgender individuals, often leaving them without a place to call home. Moreover, the inability to change their gender identity on official documents drives some into sex work, significantly increasing their vulnerability to harassment and violence. Additionally, many LGBT individuals hesitate to seek help from the police when their rights are violated due to the pervasive injustice, blackmail, and harassment they encounter within law enforcement institutions. This fear of further mistreatment creates a substantial barrier to accessing justice and protection, ultimately leaving them vulnerable and marginalized.

*Uzbekistan.* LGBT people cannot take advantage of the tools to protect their rights in the situation, as each report to the police involves the disclosure of identity and may also be accompanied by charges under Article 120 of the Criminal Code of the Republic of Uzbekistan[[8]](#footnote-8).

*“X and U, who live together, were quarreling loudly. Neighbors heard it and called the police officer. In the course of the conversation with X and U, finding out the reasons for the conflict, the policeman asked a question about their relationship and received an answer from one of them that they were a couple. After clarifying the reasons for the conflict, the police officer left the house. A few days later, the officer called one of them and "invited" them to the station to testify. X and W both came to the station, where they were told that their words about being a couple could be considered as a reason to accuse them of an offense and incriminate them under Article 120 of the Criminal Code of the Republic of Uzbekistan. They were also offered to "settle the matter" for USD 1500”[[9]](#footnote-9).*

*Kyrgyzstan*. Police officers pretended to be clients of a worker and later extorted money from a trans woman, scaring her with an outing.

“…*Instead of money, he pulled a crust from his breast pocket. It’s some horror; it turns out he was so sophisticated pretending to be a client, and he started calling someone named N. N., who turns out to be a district police officer of the Sverdlovsk district. As soon as the officer entered the apartment, he started threatening me to call all the neighbors to take statements /explanatory statements from them and close me for several days or fine me for working on his territory. I asked him not to call the neighbors and begged him to talk inside the apartment. They stood at the threshold and did not let me close the door, specially kept the door open and shouted so that everyone could hear, called the landlady of the apartment and began to say - "that a man in a wig lives in her apartment and provides sex services to men," not knowing what to do, wrote sum and offered to talk quietly. He told the landlady that he would sort it out and call back, both went into the kitchen, sat down, and asked USD 200.00 for their silence. I did not have that much money with me, I barely persuaded them for 10,000 soms (about USD 113.00). After the bribe, they immediately left the apartment. After 2 hours, the landlady came and asked to leave the apartment despite that apartment was paid in advance for two days. She said if I didn't leave, she would call 102, I didn't want to have problems with the police again, I had to pack my bags and move out of the apartment, the landlady didn't return the amount paid in advance, I had to go to the shelter so as not to stay on the street, since all my money was taken from me by the landlady and the police officers”[[10]](#footnote-10).*

*Tajikistan.* Gay man asked for psychological support after a recent case when he was subjected to blackmail and repression by law enforcement agencies. They first started chatting through social media and than arranged a meeting. It turned out that it was a police officer who, with other colleague beated and threatened victim.

*“Why? What do you want from me? An unknown man said quietly, but aggressively – don't talk too much, just come out. I was taken into an office and the two men said they were employees of the anti-prostitution department and charged me with prostitution. Than the man came up and hit me in the solar plexus, from which I almost lost consciousness. With the words – you are a “fag\*ot”, now you confess to any crime the man hit me again. Out of fear and humiliation, I said that sometimes I provide sex services to feed myself, since I can't get a normal job because of my sexual orientation. These two men said they would let me go if I share contacts of my regular customers and friends from community. In the end, not to give up all the people. Including my "girlfriends", I gave two names and showed the police officers their pages on social networks. They threatened me that if I tried to warn these men, they will jail me for 15 days, and God knows what they would do to me in the cell. After spending three hours in the police department I returned home, and could not sleep. I deleted all my pages on social media out of fear, cleared all messengers, and left in the morning to Dushanbe[[11]](#footnote-11).*

*Kazakhstan.* LGBT people live in fear of outing and cannot feel safe even in dating apps since, in most cases, blackmailers pretend to be gay people there. Importantly, blackmailing leads to poverty since victims pay a big amount of money to secure their privacy. Since police officers by themselves are blackmailers, victims lack the opportunity to find the State’s protection.

*“I met a guy. Sometime after communication, video calls, and photo sharing, the guy began to demand money and threaten me with the disclosure of correspondence and intimate photos of me. The blackmailer assures me that he knows my relatives well. After consulting with lawyers I refused to transfer the money and threatened to write a complaint to the police. The blackmailer does not get in touch at the moment and does not bother me but texts and photos are still with the blackmailer, and I live in a life of fear”.*

*“I went on a date with a guy. We went into the apartment, as soon as we began to undress and prepare for sex, a group of people with a camera came in, beat me, and began to blackmail that the video would be sent to all friends and parents. They were forced to unlock a smartphone, issued a loan to Kaspi Bank, and withdrew 300,000 tenge (about $655) through an ATM”[[12]](#footnote-12).*

Based on ECOM’s 2022 annual report, the three most common types of violations are hate speech towards LGBT people, physical violence, and abuse of power, including blackmail and threats[[13]](#footnote-13) indeed, when hate speech is coupled with acts of physical violence and threats of the exposure of person’s private information results in infringements on their rights including labor rights which lead to losing a job or in cases of renting an apartment to eviction.

In 2022, Eastern European and Central Asian countries reported 21 distressing cases of denied residence and forced eviction, specifically targeting LGBT individuals based on their Sexual Orientation and Gender Identity (SOGI) or HIV status. These incidents ranged from Kazakhstan, where an NGO was compelled to vacate their premises due to the landlord discovering their LGBT-focused mission, to Moldova, where a victim was rejected from temporary accommodation centers due to SOGI and HIV status. With 18 documented violations, Ukraine grappled with housing challenges, particularly amid the Russia-Ukraine war, which caused mass migration and a surge in internally displaced persons. These violations encompassed evictions of students from dormitories, refusal to rent or abrupt eviction from premises, denial of accommodation in temporary shelters, and even complaints against a homosexual couple offering refuge to an internally displaced family. Furthermore, instances of LGBT individuals being denied hotel stays due to their SOGI emerged, alongside refusals to admit transgender individuals into residential buildings, often exacerbated by martial law conditions. Shockingly, some faced eviction by their partners based on their HIV status, painting a grim picture of housing discrimination within the region.

1. Criminal Code of the Republic of Uzbekistan <https://lex.uz/acts/111457> [↑](#footnote-ref-1)
2. Turkmenistan Criminal Code <https://minjust.gov.tm/ru/hukuk/merkezi/hukuk/204> [↑](#footnote-ref-2)
3. Law on Acts of Civil Status of the Kyrgyz Republic <http://cbd.minjust.gov.kg/act/view/ru-ru/112094> [↑](#footnote-ref-3)
4. Russia has started expelling transgender women who lack Russian citizenship <https://meduza.io/en/news/2023/02/23/russia-has-started-expelling-transgender-women-who-lack-russian-citizenship> [↑](#footnote-ref-4)
5. Uzbekistan 2022 — Homophobia and Persecution Encouraged in Society <https://ecom.ngo/library/uzbekistan-2022-report> [↑](#footnote-ref-5)
6. Code of Administrative Responsibility of the Republic of Uzbekistan <https://lex.uz/acts/97661> [↑](#footnote-ref-6)
7. Criminal Code of the Republic of Uzbekistan <https://lex.uz/acts/111457> [↑](#footnote-ref-7)
8. Uzbekistan 2022 — Homophobia and Persecution Encouraged in Society <https://ecom.ngo/library/uzbekistan-2022-report> [↑](#footnote-ref-8)
9. Case documented by “ECOM”. Uzbekistan, 2022. [↑](#footnote-ref-9)
10. Case documented by “ECOM”, Kyrgyzstan, 2023. [↑](#footnote-ref-10)
11. Case documented by “ECOM”, Tajikistan, 2023. [↑](#footnote-ref-11)
12. Case documented by “ECOM”, Kazakhstan, 2023. [↑](#footnote-ref-12)
13. Invisible Voices: Regional report on violations of the right to health of LGBT people in the region of Eastern Europe and Central Asia in 2022 <https://ecom.ngo/resource/files/2023/07/ecom_voices23_eng.pdf> [↑](#footnote-ref-13)