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**STEERING COMMITTEE FOR HUMAN RIGHTS  
(CDDH)**

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**Draft report on the implementation of the Committee of Ministers' Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity**

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**77<sup>th</sup> meeting**

**Tuesday 19 March (9:30 a.m.) – Friday 22 March 2013  
(closing : 1 p.m.)**

**Council of Europe  
AGORA building  
*Room G02***

## Reference documents

- Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity, 31 March 2010;
- Explanatory Memorandum of the Recommendation CM/Rec(2010)5, document CM(2010)4 add3 final , 31 March 2010
- Questionnaire on the implementation of the Committee of Ministers' Recommendation on measures to combat discrimination on grounds of sexual orientation or gender identity, CDDH(2012)R76 Addendum VIII;
- Compilation of member states answers to the questionnaire, CDDH(2013)004, which, due to its extended content, is only available online at:  
[http://www.coe.int/t/dghl/standardsetting/hrpolicy/Others\\_issues/LGBT/Follow\\_up\\_en.asp](http://www.coe.int/t/dghl/standardsetting/hrpolicy/Others_issues/LGBT/Follow_up_en.asp)

## Background

1. When adopting Recommendation CM/Rec(2010)5 to member states on measures to combat discrimination on grounds of sexual orientation or gender identity the Committee of Ministers agreed to examine the implementation of the recommendation two years after its adoption.
2. At its 1151<sup>st</sup> Meeting (18 and 19 September 2012), the Committee of Ministers' Deputies therefore instructed the Secretariat of the Council of Europe to draft, under the supervision of the Steering Committee for Human Rights (CDDH), a questionnaire on the implementation of Recommendation CM/Rec(2010)5 and to transmit the document to member states and other relevant stakeholders.
3. On the basis of this decision, the Secretariat elaborated a questionnaire (CDDH(2012)R76 Addendum VIII), which was adopted by the CDDH at its 76th plenary meeting (27-30 November 2012). The CDDH gave guidance for the preparation of this report on the implementation of the Recommendation, to be submitted to the Committee of Ministers preferably by end of March 2013. The competent authorities were invited to reply to the questionnaire by 31 January 2013 at the latest.
4. 38 out of 47 states replied to the questionnaire submitted, namely: Albania, Andorra, Armenia, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Turkey and United Kingdom. In addition, spontaneous contributions submitted by Amnesty International, ILGA Europe and the European Union Agency for Fundamental Rights are not included in the present report, but are accessible online at:  
[http://www.coe.int/t/dghl/standardsetting/hrpolicy/Others\\_issues/LGBT/Follow\\_up\\_en.asp](http://www.coe.int/t/dghl/standardsetting/hrpolicy/Others_issues/LGBT/Follow_up_en.asp)
5. The following analysis refers to the replies received by the 38 member states. With regard to practicalities concerning the reading of the chapters to follow, references to "all states" shall

be meant to apply to the states which have submitted their replies. It should also be noted that in some cases some discrepancies were found between the box ticked and the explanation provided. In such cases, the replies have been evaluated primarily on the basis of the explanation provided.

## Section I

6. This section deals with the *implementation and dissemination of the Recommendation*.
7. The collected replies to the question about how states would assess the status of implementation of the Recommendation in their country, show that the majority of states that submitted their replies (twenty states) judged the level of impact as “adequate”. Six states answered “fully satisfactory”, six other states described it as “insufficient” and one state as “absent”. States that described the impact level as “adequate” explained that they did so as combating discrimination on grounds of sexual orientation or gender identity is an ongoing and complex task that cannot be considered as completed. States having answered “insufficient” indicated difficulties related to insufficient internal coordination, or that prevention of discrimination on grounds of sexual orientation or gender identity is still a sensitive issue for public opinion and various forms of discrimination, violence and threats against LGBT persons continue to occur.
8. Many responding states considered their legal systems (in particular the respective constitutions, but also Non-Discrimination and Equality Acts) as being already consistent with the items addressed by the Recommendation and its Appendix in prohibiting all types of discrimination, including discrimination on grounds of sexual orientation. In this regard, some of these states mentioned that the implementation of the Recommendation is observed within the general anti-discriminatory policy, not distinguishing the rights and interests of a specific group. On the other hand, several states also took specific legislative and policy measures to prohibit discrimination on the ground of sexual orientation and gender identity or consider doing this soon, e.g. in the field of employment in the Civil Service. It was further mentioned that the Recommendation helped to identify which improvements have to be made in the respective states to ensure the rights of LGBT persons. Many states with a significant degree of compliance with the Recommendation indicated that this reflects actions pre-dating the Recommendation (mostly in areas concerning the de-criminalisation of same-sex relationships, de-classification of homosexuality as an illness, or introduction of anti-discrimination legislation for sexual orientation in employment). It has to be noted in this regard that in most cases more emphasis has been put on a review of the current legal situation rather than to take proactive measures, such as training and awareness raising, and that these measures are often not part of a cross-sectoral comprehensive policy including national and local levels.
9. Other states reported not having a social problem of intolerance and therefore, that they did not find it necessary to implement actions to promote tolerance of LGBT persons. Areas in which states indicated further obstacles for the full implementation of the Recommendation are especially private life and family relations, the recognition of reassignment treatment for

transgender persons, as well as protection of participants in peaceful demonstrations in favour of human rights of LGBT persons.

10. As to whether a review of existing legislative and other measures which could result directly or indirectly in sexual orientation or gender identity discrimination has been carried out, only a small group of states (eight states) declared to have amended several Acts to further regulate discrimination based on sexual orientation and gender identity following the adoption of the Recommendation; eleven states mentioned ongoing work in this area and four more states the intention to do it in the near future. Finally, eight states simply answered not to have carried out such a review.
11. Some of the states that replied in the negative declared that their national legislation *per se* does not contain discriminatory clauses and that allegedly discriminatory provisions, if there were any, are usually removed in the drafting process. Further, some of these states outlined that although sexual orientation and gender identity is not explicitly mentioned as a ground for discrimination in the anti-discrimination clauses, this does not imply that discrimination on these grounds is not prohibited by law. In this respect, they also stated that anyone can lodge a constitutional complaint alleging discrimination on grounds of sexual orientation or gender identity with the Constitutional Court.
12. Some of the states that replied in the positive referred to technical reviews of certain laws (e.g. by an ombudsperson), others mentioned that surveys have been carried out to investigate whether LGBT persons find themselves in a worse position than others, in terms of provisions pertaining to various sectors of life and their application, as well as mapping exercises in order to identify remaining barriers that prevent LGBT-persons from enjoying equal rights and opportunities. In some States, such as Italy, the national equality body monitors administrative or regulatory actions in order to report about any discriminatory provisions.
13. Eighteen states reported having put in place measures to redress any of the above-mentioned discrimination, thirteen other states are in the process of doing this and one intends to do so. One state replied that they did not introduce measures to redress such discrimination. Many of the states that replied in the positive referred to their national legislation and mentioned individual complaint mechanisms (ombudspersons, equality tribunals and courts) providing legal remedy for such cases, as well as the right to be granted compensation for any kind of damages, both material and moral, caused by infringement of the principle of equal treatment (on nine specified discriminatory grounds). Some of the states that answered in the negative commented that no cases of discrimination have been brought to the attention of the competent authorities so far and hence there was no need to redress possible sources of discrimination.
14. Pursuant to the adoption of the CM Recommendation 2010(5), more than half of the responding states adopted and implemented legislative and other measures against discrimination on grounds of sexual orientation or gender identity (including the establishment of national action plans, the inclusion of the Recommendation in existing plans, or the creation of cross-sectoral working groups for its implementation); thirteen other

states reported to be in the process of doing so and two more states mentioned their intention to take such measures. However, a group of four states gave negative feedback on this.

15. Those replying positively referred: to the adoption of new legislation (such as Gender Equality Acts and Protocols dealing with Hate Crime, Marriage Acts as well as National Policies for Gender Equality); legislative amendments in several areas (e.g. revision of the existing anti-discrimination legislation with the intention of extending the means for legal protection to cover all grounds for discrimination on an equal footing, extension of the protection of domestic violence acts on the same basis to same-sex couples not registered for civil partnership, establishing as a new offence hate speech on the grounds of sexual orientation or gender identity under the Criminal Code); a considerable number of states mentioned setting up cross-sectoral working groups or committees as well as the establishment of national action plans for LGBT people (e.g. on health). Concerning the legislative measures, one state explained that the term “gender identity” did not exist in its national law and that therefore it used the term “sexual identity” instead to cover the situation of transsexual as well as of transgender persons in accordance with the Recommendation. One state further indicated that a Memorandum of Understanding has been drawn up in cooperation with local government authorities to combat discrimination on the grounds of sexual orientation and gender identity. As already mentioned above, it has to be kept in mind that many of these positive developments actually reflect actions pre-dating the Recommendation. Moreover, the collected responses of the states also display that gender identity is included only to a very limited extent in such measures in comparison to sexual orientation.
16. Six states (Albania, Italy, Latvia, Montenegro, Poland and Serbia) explicitly referred to the Council of Europe assistance project in the context of the implementation of the Recommendation, in particular with regards to the establishment of national action plans, the organisation of seminars and training activities.
17. Only ten states confirmed having measures in place to collect and analyse relevant data on discrimination on grounds of sexual orientation, eleven more are in the process of putting in place these measures and one intends to do so. In eight states such measures do not exist. With regard to measures to collect and analyse relevant data on discrimination on grounds of gender identity, just eight states declared having taken steps, while more states (nine) did not do so. Ten more states are in the process of working on this and five more states intend to do so.
18. Furthermore, ten states declared that there are measures in place to collect and analyse relevant data on hate crimes and hate-oriented incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator. Eleven other states are working on the implementation of such measures and four more intend to do so soon. On the other hand ten states replied not to have such measures in place. Some of the states that replied in the negative reported not having dealt with cases of discrimination on grounds of sexual orientation so far, which would have required the adoption of measures to collect and analyse data. Other states referred having a conflicting

law on the protection of personal data that forbids the processing of personal data concerning sexual orientation.

19. States that specified that they collect and analyse relevant data indicated among the areas in which such data are collected the following: discrimination on the grounds of sexual orientation, violence against LGBT persons, health and education; quantitative surveys focusing on the nature and extent of discrimination; violence, humiliation and victimisation on the ground of sexual orientation and gender identity; as well as surveys among defense forces. Some of these states also mentioned having a special antidiscrimination body or the ombudsperson assigned with this task. Other states referred to courts, ombudspersons, the Ministry of Interior, the police or the security and intelligence service. However, many states indicated that these data are not disaggregated depending on the motive of the perpetrator. It also has to be noted in this regard that the number of complaints does not reflect the prevalence of discrimination as the majority of people who have experienced discrimination do not file a complaint.
20. Regarding the existence of effective legal remedies for victims of sexual orientation or gender identity discrimination (including sanctions for infringements and adequate reparation for victims), essentially all the states affirmed the existence of such remedies or referred to them as being under way. Many of these states mentioned that their law does not only entitle victims of discrimination (including on the ground of sexual orientation and gender identity) to claim damages in cases of violation of their private sphere, but also prescribes sanctions (both detention and monetary fines) for infringements, while victims are entitled to reparation for either material or moral damages. Strikingly, one state reported the possibility to seek compensation for violation of the principle for equal treatment on the basis of sexual orientation but not on the basis of gender identity. Some states also referred to easily accessible conciliation proceedings. In cases where there are no specific provisions in the relevant legislation for sexual orientation and gender identity, the right to appeal to courts in cases of unjustified discrimination can be drawn from the constitution. In practice, however, it seems that the number of complaints related to discrimination on grounds of sexual orientation and gender identity remains very low.
21. Sixteen states reported on measures in place to raise awareness and facilitate access of victims to such remedies, and thirteen more are working on it. A small group of three states answered in the negative. Some states commented that there are no special measures only addressed to victims of discrimination based on sexual orientation. These victims may benefit, as any other person, of existing remedies. Other states referred to the national human rights structures (ombudspersons, equality bodies) assigned with the task of raising awareness and facilitating access of victims to such remedies as well as the creation of competent anti-discrimination units within the high courts. Some of the responding states further mentioned associations of support to victims and that in case the complainants meet specific requirements, he/she may ask for free legal aid. France mentioned having made available forms for specific complaints or reporting about such forms of discrimination at police stations and law centres. France, Malta and the United Kingdom reported about having information campaigns on the rights of victims of homophobic acts, including the publishing

of a booklet to assist potential victims of discrimination. Authoritative and impartial advice to employees and employers is further provided via Internet and telephone helplines.

22. For the purpose of dissemination, the states were invited to translate the Recommendation. While a notable number of twenty-three states have already done so, two more states have made commitments to comply with this invitation. One state indicated the intention to translate the Recommendation also in minority languages. That being said, thirteen states still need to do this.
23. Concerning the question on which steps have been taken to ensure dissemination of the Recommendation and its Appendix as widely as possible, many states reported that the translated Recommendation has been forwarded to all relevant national authorities, including different ministries, the police, the ombudsperson, to all NGOs working on LGBT issues, syndicates and employees, the press as well as national libraries. Montenegro referred to the organisation of a Conference involving all relevant public and non-governmental stakeholders to promote the recommendation. In addition, a few states carried out awareness-raising campaigns on LGBT-issues, including the Recommendation. Some states further underlined the importance of civil society in this process.

## Section II

24. This section concerns the *implementation of the specific provisions in the Appendix* of the Recommendation.

### I- Right to life, security and protection from violence

25. The majority of replying states indicated that, as a matter of principle, the investigation of all criminal acts, irrespective of the motive, is ensured by general rules of law. In nine states there are more specific requirements when the act is reasonably suspected to be homophobic. Only one state replied negatively to this question, and another indicated that its position on was not determined. In one state, recent amendments to the criminal code allowed the inclusion of grounds of sexual orientation in the definition of “hate crimes”, and in seven other states amendments of existing legislation are being considered to clearly set such motives in the law or to clarify the applicable law. In three states the Ombudsperson, (in one case, together with the Chancellor of Justice), can receive complaints or can open an *ex officio* investigation when a person is assaulted on grounds of sexual orientation.
26. For at least fifteen states, bias motives related to sexual orientation are considered an aggravating circumstance. In one state it is an aggravating circumstance in case of homicide; in another state, discrimination is itself a crime considered by the criminal code. In four states, the decision is left to the judge when sentencing. In seven states there are no measures to ensure that a bias motive relating to sexual orientation or gender identity is being taken into account as an aggravating circumstance, but five of them are envisaging amendments to legislation. In not all cases gender identity is explicitly indicated in legislation as an aggravating circumstance, and two states indicated clearly that it would be considered as an aggravating circumstance under “other grounds” or “other comparable acts”.

27. Awareness-raising campaigns, Internet information, publications and police and other professionals' training are among the measures taken by nineteen states in order to encourage victims and witnesses of sexual orientation or gender identity-related hate crimes to report them. Four states referred to general measures of protection of victims. In one state a draft law relating to victims of criminal offences is being considered. Ten states seem to have no specific measures. In Montenegro, an agreement on cooperation has been concluded between an NGO and the Police Directorate in order to increase confidence of the public and improving the capacity of the police to protect the rights of LGBT persons.
28. Thirty-one states mention the existence or the preparation of training programmes; some are specifically devoted to LGBT issues, others focus on human rights and diversity. In one state the training is foreseen after an amendment to the criminal code will enter into force, and another state indicated that it intended to work on this. Two member states indicated not having training programmes in place in this respect and three member states provided no information.
29. The majority of member states apply the general anti-discrimination rules to protect of the safety and dignity of all detained persons. When there is a risk of physical assault or abuse, several member states provide specific measures to ensure safety, such as separate facilities; two member states reported special measures for transgender persons. Among the three member states not replying to the question, one considers the existent measures to ensure the safety and dignity of prisoners as sufficient.
30. Twenty-eight member states reported that appropriate measures exist or that work is in progress to combat all forms of "hate speech" in accordance with the Recommendation. Five member states intend to work on this issue. In eight member states reference is made to the provisions of the criminal code, but other laws, in particular on press and other mass media, also prohibit hate speech. One member state has no position determined and no specific measures in place, as the authorities indicate in their reply that hate speech against LGBT persons has not been observed. Two other member states do not have specific measures, and another two provided no information. One member state highlighted the need to balance the right to freedom of speech with the need to prevent actions which intimidate, threaten violence or incite others to hatred. Concerning the awareness raising of public authorities and institutions to refrain from statements which could legitimise hatred against LGBT people, seven member states have measures for this purpose, fourteen indicated work in progress in this domain and four indicated that it intended to work on this issue.
31. As an example of good practice, three partner states of the Council of Europe's LGBT Project mentioned the international seminar which took place in Budva, Montenegro, in December 2012, on "Police Training relating to LGBT issues", where stakeholders and decision makers in this domain, together with relevant NGOs, gathered together in order to exchange views and good practices. One of the aims was to develop trust between the police and the LGBT community.



## II- Freedom of association

32. Almost all states (thirty-six) reported having measures in place to ensure that freedom of association (including access to public funding available for non-governmental organisations) can be enjoyed without discrimination on grounds of sexual orientation or gender identity, except for one that indicated that such measures do not exist and another that described its position as not determined on this issue. It is however noted that, at least in one state, information about board members of LGBT organizations has to be available to the public.
33. Concerning measures to review or lift limitations and exceptions to the guarantees set out in paragraphs 9 and 10 of the Appendix to the Recommendation, in nearly all of the responding states there are no specific measures in place. The replies provided underline that the relevant national legislation does not foresee any restriction of the freedom of association based on sexual orientation and gender identity, and that in most states LGBT organisations can be registered without difficulties and operate freely.
34. With regard to specific measures in place to effectively protect defenders of human rights of lesbian, gay, bisexual and transgender persons against hostility and aggression (including when allegedly committed by state agents) only twelve states indicated having introduced criminal law provisions protecting LGBT defenders. Five more states mentioned work being under way in this field and three more states intend to work on this. A large group of twelve states reported not having introduced such measures so far. Most states justified this by stating that the existing mechanisms already provide a safeguard, as everyone is entitled to file a complaint before the relevant state organ. Accordingly these states explained there was no indication of any need for specific protection. States that replied in the positive reported that their national criminal law protects defenders of LGBT person's rights from hostility and aggression, either active or verbal.
35. Twenty-three states have taken measures to ensure that non-governmental organisations (NGOs) defending the human rights of LGBT persons are appropriately consulted on the adoption and implementation of measures that may have an impact on these persons; seven more are in the process of doing so and two more indicated their intention to introduce such measures. However, three states gave negative feedback to the question.
36. Cooperation between NGOs defending the rights of LGBT persons and the government has significantly improved. A great number of states reported that relevant NGOs are invited on a regular basis to take part in the review of legislative proposals and in the implementation of action plans, are represented on preparatory committees and are involved in the preparation of government policies affecting LGBT people as well as in working groups. Some states also mentioned public consultation through the Internet in this regard. Yet, it is not ensured in all cases that LGBT points of view are taken into account in all relevant legislative procedures, and that they have any effect on the outcome.

### **III- Freedom of expression and peaceful assembly**

37. Nearly all states (thirty-four) reported having measures in place to ensure that freedom of expression, including freedom to receive and impart information on subjects dealing with sexual orientation or gender identity, can be enjoyed without discrimination on grounds of sexual orientation or gender identity. One state reported that it is still in the process of putting measures in place and three states described their position on this as not determined.
38. By the same token, thirty-four responding states have taken measures to ensure that freedom of peaceful assembly can be enjoyed without discrimination on grounds of sexual orientation or gender identity; one more state mentioned ongoing work on this and two more do not dispose of a determined position regarding this issue.
39. As regards measures to review or lift specific limitations or exceptions regarding such freedoms, most responding states indicated not to have any specific restrictions on the freedom of expression or assembly dealing with sexual orientation or gender identity besides the general limitations prescribed by law and necessary in a democratic society, in the interest of national security, public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.
40. As to whether law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of LGBT persons, a large majority of thirty-three states replied in the positive; one state is currently working on this and two more do not have a determined position on this. Some of the responding states stressed the positive obligation - set out according to the respective Constitutions - of the police to protect citizens' rights freedom to assemble and to defend this right, including for participants of demonstrations in favour of rights of LGBT persons. For this purpose, such demonstrations have to be registered beforehand with the police. When there has been reason to suspect that a crime has been committed, the police has to investigate the issue. Responding states also stressed that no distinction is made with regard to LGBT demonstrations. In this regard, several of the responding states referred to past gay pride events during which the police effectively protected the participants. However, one state reported that organisers of "gay pride" marches received threats, and the parade consequently had been cancelled, and another state reported that according to NGOs some incidents had taken place during a parade without appropriate response from law enforcement officers.
41. Concerning examples of good practice in this area, few states mentioned the publishing of guidance and the realisation of special training for police personnel. The training includes topics such as mental preparation, communication, law, spotting dangers and preventing injuries.

### **IV. Right to respect for private and family life**

42. Twenty states stressed that criminal law provisions which could have led to discriminatory applications with respect to sexual orientation or gender identity have been repealed for some time, and no such provisions exist any longer in the criminal code. One state mentioned a

mechanism which allows, if needed, such changes in the criminal code, and another indicated that so far no complaint had been raised about the existence of such provisions. Three states reported some exceptions to the general principle of equality which still exist, and one state indicated that some terminology in its criminal code might be regarded as a contribution to discrimination. One state replied that a thorough review of national legislation is ongoing in this respect. Only one state replied that no review had taken place so far.

43. All states, except for two – reported that measures exist to ensure that personal data referring to a person’s sexual orientation or gender identity are not collected, stored or otherwise used except where it is necessary for specific, lawful and legitimate purposes. In all states, specific laws on data protection define prerequisites of processing personal data. Data referring to a person’s sexual orientation or gender identity are considered as “sensitive data”, and as such enjoy an increased level of protection - processing them is usually prohibited and constitutes a criminal offence. Some exceptions are clearly specified in the law. Often the written consent of the person concerned is needed, but in some cases processing such sensitive data is forbidden in any event.
44. Twenty-two states indicated having measures in place or in preparation to guarantee full legal recognition of a gender reassignment in all areas of life of a transgender person. Sixteen member states answered positively to the question if prior requirements for legal recognition of gender reassignment were reviewed or under review in order to remove any abusive requirement. Requirements such as the need for surgery, including genital surgery and irreversible sterilisation, medical diagnosis of gender disorder, hormonal treatments and forced divorce are still in place, but several member states are making efforts to change the situation by looking into existing procedures with a view to revising them. One state indicated having no legal measures in place or in process for the recognition of a change of gender.
45. Twenty-six states recognise the right of a transgender person, once the reassignment is complete and legally recognised, to marry the sex opposite to the reassigned one. In states recognising same-sex marriage, the transgender person can remain married or marry a person of the same reassigned gender. In one state the issue is under consideration but there is no legal prohibition. Six states replied negatively (although in at least one case the information provided may lead to the opposite conclusion), and two sent no information.
46. In some states draft laws on equal marriage or civil partnership are being prepared or submitted to decisional bodies. While in general civil partnerships give the same rights to same-sex as to heterosexual couples, at least in one state, the rights of same-sex couples are not identical to those of married couples. Concerning the second part of the question, on the possibility to provide same-sex couples, through legal or other means, with the possibility to address the practical problems relating to this fact in their lives, the majority of the countries did not reply to this question, or replied that the issue was not applicable or that no measures of this kind were foreseen.
47. Twenty-one states indicated having measures in place to ensure that decisions regarding parental responsibility and adoption of a child are taken primarily in the child’s best interest,

as well as without discrimination based on sexual orientation or gender identity, stressing in several cases that the best interests of the child is the paramount consideration when it comes to parental responsibilities. One state whose position was defined as not determined noted that sexual orientation was not relevant in this context, and that in any case the constitutional principle of non-discrimination would apply. In some states the situation of adoption is evolving in connection with the introduction of same-sex marriage. In the majority of cases, only married heterosexual couples may adopt a child, and in some cases adoption by a single person is foreseen. In one state a draft law aiming at allowing adoption independent of the marital status, as well as a revision of the law on medically assisted procreation are presently being considered. In seven states LGBT persons, individually or as a couple, have the possibility to adopt or foster a child.

## **V. Employment**

48. Almost all of the states that submitted their replies (thirty-six out of thirty-eight) reported having in place legislation prohibiting discrimination in employment in the public and private sector on grounds of sexual orientation. Two states indicated that the establishment of such legislation is in progress.
49. As to whether legislation prohibiting discrimination in employment in the public and private sector on grounds of gender identity exists, a lower number of states, but still a majority of twenty-eight states answered in the positive. Five states referred to such legislation as work in progress. However, four states indicated that such legislation does not exist.
50. A majority of the reporting states (thirty) further confirmed the existence of measures concerning the access to employment. Likewise, twenty-eight states reported having measures in place on the promotion, dismissal, pay and other working conditions; five reported that work in this area is ongoing. Twenty-eight states indicated they had introduced measures concerning prevention and punishment of harassment; in four work on this is in progress and three others indicated that such measures do not exist. However, only twenty states reported having measures in place concerning the protection of privacy of transgender persons (in accordance with paragraph 30 of the Appendix to the Recommendation). Work concerning these measures is ongoing in seven states. Two states replied that they do not have measures in place on the protection of privacy of transgender persons.
51. Most of the states having in place legislation prohibiting discrimination in employment in the public and private sector on grounds of sexual orientation, provided a description of their legal instruments setting out these principles. The instruments mentioned were: Acts on Equal Treatment stating that nobody shall directly or indirectly be discriminated against due to her or his sexual orientation (Albania, Andorra, Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Georgia, Germany, Greece, Ireland, Italy, Lithuania, Netherlands, Serbia, Sweden, Switzerland, United Kingdom); Labour Law (Croatia, France, Latvia, Montenegro, Poland, Portugal, Serbia, Spain, Turkey); Administrative Law (Serbia, Spain, Turkey), Criminal Code (France); Data Protection Acts (Malta, Spain). In one state sexual orientation protection is explicitly covered in employment, while gender identity is not. Some of those states where the above-mentioned measures are not yet in place indicated

that protection against discrimination can be construed from the provisions of the national constitution and the general provisions in labour legislation. Consequently, any harassment or deprivation of rights is prohibited and victims can resort to equality bodies, ombudsperson or the courts. There is little evidence from almost all states on measures taken in respect of discrimination in the armed forces, especially with regard to transgender persons.

52. Concluding, some states mentioned example of good practice. Finland indicated the existence of codes of conduct to combat discrimination on grounds of sexual orientation or gender identity in the armed forces, while Germany reported police training curricula including the subject of “Homosexuality at the police”. Moreover, the results of a study on the mainstreaming of equal opportunities and diversity - including an overview of existing instruments, the experience of individuals made and the perspectives offered - were published and distributed among civil servants in Germany.
53. Regarding the development of programmes focusing specifically on employment opportunities for transgender persons, Belgium set up an awareness-raising initiative publishing a brochure with information for employers entitled “Transgender on the work floor” aiming to provide advice and practical tips, and Italy organised “career days” for vulnerable persons, including in particular transgender persons.

## **VI. Education**

54. Concerning paragraphs 31 and 32 of the Appendix to the Recommendation, states were first asked to report whether they have in place appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, taking into due account the over-riding interests of the child and the rights of parents regarding education of their children. Twenty-two of the responding states replied in a positive way, whilst twelve states illustrated that the drafting of such legislative and other measures is in progress. One state mentioned its intention to further work on this.
55. Approximately half of the responding states (eighteen) reported having in place measures concerning anti-discrimination training or support and teaching aids, thirteen states indicated working on such measures and two states replied in the negative. Concerning specific measures on information, protection and support for public pupils and students, seventeen states mentioned having already introduced such measures; twelve states indicated that work in this area is ongoing and one indicated that such measures do not exist. Fifteen states confirmed the existence of measures to ensure objective information on sexual orientation and gender identity in school curricula; eleven states declared to be working on this and two states replied not having any measures in place. As to the question whether measures with regard to school equality and safety policies and action plans have been introduced, sixteen states replied in the positive; nine states reported on ongoing work in this area and three states intend to do so. Three states answered in the negative. None of the responding states provided information about measures taken to meet the specific needs of transgender pupils.
56. In the context of specific examples of good practice, some states explained that although LGBT issues are not directly covered in the curricula, the curricula of Civics include topics of equal treatment (Andorra, Croatia, Estonia, France, Greece, Montenegro, Serbia,

Slovenia). Other states reported that the issue of sexual orientation and gender identity has been included in the curricula under the subject of Health Education (Armenia, Croatia, Czech Republic, Denmark, France, Latvia, Liechtenstein, Lithuania, Montenegro, Poland, Sweden, United Kingdom). Some states mentioned specific gender-sensitive education, teaching manuals including material on homophobia and transphobia and anti-discrimination training thereof (Austria, Belgium, Finland, France Netherlands, Slovenia). Other states also referred to counselling services in schools (Slovenia).

57. Relating to the set-up of initial and in-service anti-discrimination training or support and guidance for teachers and other educational staff to address these issues, Norway described a project aiming at increasing competence with regard to LGBT-issues among employees in the teaching profession. The United Kingdom provided guidance to support schools in preventing and tackling homophobia and homophobic bullying. Moreover, some states mentioned the publication of a resource guide on sexual relations and sexuality for teachers in primary schools and the provision of updated teaching material for use in sexual education. Belgium (Flanders) further alluded to workshops on breaking gender stereotypical and hetero-normative images, focusing on publishers of books and manuals for schools. Concerning the adoption of codes of conduct against homophobic or transphobic attitudes, or any other direct or indirect discriminatory treatment, Belgium (Flanders) reported on a website providing tips for gender-neutral and LGBT-friendly schools, with examples of diversity policies. Malta reported conducting theatre sessions for students as a means of learning about equality, aiming at empowering students to challenge stereotypes and discrimination. Germany referred to initiatives combining awareness campaigns directed at a young audience with concrete offers of counselling. France mentioned the launch of a project on the fight against discrimination based on sexual orientation or gender identity, focusing on the prevention of youth suicide among victims of homophobia.

## VII. Health

58. Paragraph 33 of the Appendix to the Recommendation CM/Rec(2010)5 calls states to take appropriate measures to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity. Twenty-two of the responding member states gave positive feedback as to whether such measures are in place, in most cases explaining how their legal instruments complied with this requirement or referring to the general principle of non-discrimination. Eleven states indicated that work to introduce such measures is in progress and one state mentioned its intention to work on this. Identification of a same-sex partner as next of kin remains still problematic in a number of states. Incidents of intersex children being exposed to non-medically-based surgery as well as unequal access to health care services for gender variant children and transgender teenagers were mentioned in the information provided by NGOS attached to the replies by one state.
59. As concerns examples of good practice, several of the responding states referred to appropriate education and training policies, programmes such as awareness-raising and competence-building among health personnel and students in the field of health, aiming to enable them to deliver health care with respect for each person's sexual orientation and

gender identity. These practices also include taking into account LGBT persons' special needs in the designing of national health plans, medical training programmes, and medical material (e.g. in Belgium (Flanders), Finland and Norway). The Danish government, for instance, has focused on LGBT-issues in producing a "prevention- package" regarding sexual health with recommendations on how municipalities can ensure that vulnerable groups such as LGBT persons get the necessary advice, information and treatment. In this regard, France published information about the risk of suicide among sexual minorities that are victims of homophobia, and how to prevent it. Norway reported having included LGBT issues in the upcoming national public health strategy, and about a new action plan in progress to prevent suicide and self-harm, including specific measures dealing with LGBT as a vulnerable group. Furthermore, some states mentioned initiatives to encourage health professionals and social workers to create a reassuring and open environment for young LGBT persons. Sweden carried out an information campaign to this end. Some states reported carrying out studies on the health of LGBT persons, including behavioural research on HIV prevention (Armenia).

60. Moreover, almost all states (thirty-three) affirmed that homosexuality has been removed from the national classification of diseases. One state reported that work to do this is in progress; another intends to work on this. No state replied in the negative. However, it appears that in some states trans-sexualism is still treated as a mental disorder.
61. As to the existence of measures to ensure effective access to appropriate gender reassignment services, sixteen gave positive feedback; eight states reported on work in progress to introduce such measures, and three more states mentioned their intention to work on this. Four states however, replied in a negative manner and four described their position as not determined. All states that replied in the negative or with a position non-determined, as well as some that replied in the positive, stated that the costs of gender reassignment procedures are not covered by health insurance. For some this is due to the fact that medical operations for gender reassignment cannot be carried out in the states themselves and are performed abroad. Nevertheless, in such cases, psychological support is offered by some countries of origin. The replies collected also show that in some of the states where costs for gender reassignment procedures are covered by public health insurances schemes, such services are only available in very limited cases, and the insurance coverage would only be provided if deemed medically necessary. "Purely cosmetic surgery operations" (treatment of secondary sexual characteristics), performed after gender reassignment surgery, are in most cases not reimbursable.

## **VIII. Housing**

62. Twenty-five states reported having taken appropriate measures to ensure that access to adequate housing can be effectively and equally enjoyed by all persons, without discrimination on grounds of sexual orientation or gender identity; that protection is provided against discriminatory evictions; and that equal rights are guaranteed in respect of ownership of land and other property. Four states mentioned that work regarding such measures is in progress and two other states did not indicate a determined position on this. Most of the responding states referred to relevant national legislation which provides for the general principle of non-discrimination as not allowing any discrimination based on sexual orientation or gender identity, which would also apply to the possession of land and other

property, eviction and other issues concerned with housing. Some states additionally mentioned that if a LGBT person has been discriminated against in the context of housing, they might send a complaint to the respective equality bodies or ombudsperson.

63. As regards examples of good practices in these areas, the United Kingdom mentioned the issuing and promotion of good practice guidelines to help housing providers to recognise LGBT issues and to plan and provide appropriate services that match the differing needs and preference of diverse consumers. These guidelines include sections on initiatives to tackle hate incidents as well as recognising and addressing homophobic and transphobic harassment. A study has been commissioned on how the guidelines have been used and to advise on its future use.
64. With respect to the risk of homelessness faced by LGBT persons, in particular young persons and children, states were asked to take measures to ensure that relevant social services are provided without discrimination on grounds of sexual orientation or gender identity. An examination of the replies shows that at least nineteen states affirmed that such services are granted without any discrimination on the grounds of sexual orientation or gender identity; six states reported that work on the elaboration of such measures is being undertaken; and two others plan to work on such measures in the close future. Some of the states that reported not having provisions protecting LGBT persons in particular from becoming homeless, indicated that relevant national legislation provides for the principle of non-discrimination, and thus every form of access to housing is protected by anti-discrimination acts or social welfare acts.
65. As concerns examples of good practices, the Netherlands mentioned that if the general services are not capable of providing suitable intervention to meet the specific demands of LGBT individuals, tailored intervention might be offered. One example of this would be shelters for men who are at risk of honour-based violence because they are gay, bisexual or transgender.

## **IX. Sports**

66. As to whether measures (including awareness-raising measures) have been taken to tackle discrimination on grounds of sexual orientation or gender identity (including the use of discriminatory insults) in sports and in connection with sports events, only six states replied in the positive; eleven more states reported working on such measures and four intend to do so. Six other states were negative on the existence of any measures to prevent, counteract and punish the use of discriminatory insults with reference to sexual orientation or gender identity during and in connection with sport events; and four more states described their position as not determined on this issue. It should be noted that undertakings in the field of sports to combat all forms of discrimination often do not distinguish specific target groups.
67. With regard to good practice examples, several states that already implemented specific measures, as well as those that are in the process of implementation, reported drawing up disseminating of codes of conduct for the attention of sports organisations and clubs (Denmark, Finland, France, Ireland, Italy, Sweden). Some states reported about launching awareness-raising campaigns to tackle discrimination on grounds of sexual orientation or gender identity in sports, including workshops on gender diversity at schools, as well as



launching action plans to tackle homophobia in football (Belgium (Flanders), France, Germany, Italy, Netherlands). In some cases such campaigns also included fighting the use of homophobic language in all sports (France, Norway). Moreover, in three states partnerships between associations representing LGBT persons and sports clubs have been established and financial support offered to sports clubs set up by LGBT persons (France, Germany, Netherlands), and the government of Montenegro supported participation of a delegation to the LGBT Olympic Games. United Kingdom reported that research was underway into understanding LGB participation in sports, and that a LGBT sports network had been established to identify areas of work.

## **X. Right to seek asylum**

68. Thirty states reported recognising a well-founded fear of persecution based on sexual orientation or gender identity as a valid ground for the granting of refugee status and asylum under their national law. Another one reported that work on this is in progress and yet another mentioned its intention to work on this. Two states characterised their position regarding this as not determined. Only few states explicitly refer to sexual orientation in their laws or regulations on asylum and even fewer on gender identity. In fact, many of the states that answered positively explained, in referring to national legislation, that the term “social group” is interpreted widely – so to include LGBT groups- when determining refugee status based on a well-founded fear of being persecuted in accordance with Article 1.A.2 of the 1951 Convention Relating to the Status of Refugees.
69. Some states indicated not having any practice about asylum seekers who claim to be persecuted on the grounds of being lesbian, gay, bisexual, or transgender, while others mentioned having issues guidelines to ensure that asylum claims brought on these grounds are handled sensitively and appropriately (Norway, United Kingdom). As concerns other examples of good practice in this area, several states reported that staff responsible for the processing of these requests received guidance and training in specific problems encountered by LGBT refugees or asylum seekers (Belgium, France, Ireland, Slovakia, the United Kingdom). This training included, inter alia, interviewing techniques for vulnerable persons. France further mentioned the establishment of working groups to define tools to improve the interviewing techniques and to facilitate the drafting and decision-making on these issues. Nevertheless, it should be noted that no state mentioned having taken measures to provide protection from discrimination in detention centres.
70. Member states were asked to report about whether they ensure that asylum seekers are not sent to a country where their life or freedom would be threatened because of their sexual orientation or gender identity. A majority of twenty-eight states assured that they respect the principle of *non-refoulement* and instead of returning persons in such cases they grant them the protection they seek, although in some cases this reply was given in general terms as there were no concrete cases so far; two more states reported that work on this is in progress and another state indicated the intention to work on this. A great number of the states that replied in the positive noted that most national human rights structures have made efforts to support the rights of LGBT people. With regard to examples of good practice in this area, Sweden for instance, reported several projects and activities of the Migration Board are

aiming at enhancing the competence in LGBT issues as well as the adoption of legal statements on how to apply the relevant legislation in cases where grounds for asylum are related to LGBT issues.

## **XI. National human rights structures**

71. As to the mandate of national human rights structures (equality bodies, ombudsperson, and national human rights institutions) to tackle problems of discrimination including on grounds of sexual orientation or gender identity as well as multiple discrimination, a large number of the responding member states (twenty-eight) confirmed that these Structures are entrusted with the dealing of problems on grounds of sexual orientation; three states reported that work regarding this is in progress; one more intends to work on this. Three states replied in the negative and two others described their position regarding this issue as not determined. For discrimination on grounds of gender identity, a lower number of states (twenty-three) reported a clear mandate for their National Human Rights Structures to address this issue, and four mentioned that work regarding this is ongoing. Moreover, another four states replied that their position concerning this issue is not determined and four more indicated that their National Human Rights Structures have no mandate on gender identity.
72. Although many states mentioned that National Human Rights Structures do not explicitly address discrimination on grounds of sexual orientation and gender identity, protection against cases of discrimination on such grounds is provided under National Human Rights Structures as on any other ground. Poland mentioned the setting up of a network of police plenipotentiaries for the protection of human rights, performing the role of so-called liaison officers with, among others, the LGBT community.
73. As to the possibilities of intervention included in the mandate of national human rights structures, in particular with respect to discrimination on multiple grounds, most states mentioned that the scope of action of equality bodies and ombudspersons covers: independent investigation of complaint or petitions concerning alleged cases of discrimination; assistance to discriminated persons in legal and other proceedings, i.e. by giving advice in legal remedies; carrying out investigations *ex proprio motu* into incidents of discrimination; conducting of mediation, including addressing recommendations to offenders on ways to put an end to the violation, its causes and consequences; issuing non-binding opinions whether discrimination occurred in a certain situation; imposing a fine or awarding compensation if the issue cannot be resolved through mediation; seeking injunctions; making applications for Judicial Review, with the possibility to submit a constitutional complaint; issuing recommendations on discrimination-related questions; conducting research and inquiries; collecting and analysing statistical data on discrimination cases; providing information through publishing reports and conducting public campaigns aimed at combating discrimination and through media releases; undertaking short-term measures contributing to gender equality; reporting to parliament and government, and submitting of initiatives for the amendment of laws and other regulations to them.
74. Serbia pointed out that the Ombudsperson might decide exceptionally to act upon a complaint even before the procedure has been completed, if he/she considers it necessary due

to the danger of unavoidable harmful consequences. Denmark reported that the decision made by the national human rights structures cannot be appealed by any other administrative authority, and that the bringing of cases before it is free of charge. Most states further reported that national human rights structures also support and counsel victims of discrimination on grounds of sexual orientation after investigation (Austria).

75. However, the replies to the question also show that the equality bodies' mandates do not fully cover discrimination on grounds of sexual orientation in all areas of life in all states.

## **XII. Discrimination on multiple grounds**

76. Finally, with regard to paragraph 46 of the Appendix to the Recommendation, states were asked if they have measures in place to ensure that the provisions of national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity. A majority of twenty-two states gave a positive feedback to this question; four more states mentioned ongoing work in this area and three states alluded to an intention to work on this. Five states described their position on this question as not determined and one state replied in the negative. Some of the states that replied in the positive referred to their national legislation already containing provisions that make direct discrimination unlawful because of a combination of two protected characteristics. Moreover, some of these states place a duty on public authorities to have due regard to the need to promote equality of opportunity among people within up to nineteen different categories, including sexual orientation. One of the states without a determined position pointed out that people experiencing discrimination because of a combination of protected characteristics can continue to bring separate claims for each characteristic. Another state without a determined position pointed out that complaints would be handled on the ground of the discrimination considered as the "principal" one.

77. Belgium reported on joint actions to help victims of discrimination on multiple grounds conducted in collaboration with other relevant bodies. Similarly, Germany referred to projects aimed at the support of LGBT persons with a migrant background. Ireland indicated that approximately 20-25% of complaints referred annually to the national Equality Tribunal are complaints made on multiple grounds.

## **Section III – Follow up**

78. Around seventeen states made proposals on Council of Europe's measures to ensure that member states are guided in their national legislations and practice by the principles set out in CM/Rec(2010)5 and its Appendix. Amongst the suggestions made by more than one state are:

- Identification, promotion and exchange of examples of good practices for better implementation of the Recommendation, including through a compilation of good practices, with the input from national human rights institutions and civil society;
- Mainstreaming LGBT issues within the Council of Europe and setting up a long-term action plan for the respect of LGBT persons' rights, which may require the institutionalisation of a LGBT unit;

- Raise public awareness and provide information, both on the website and through publications, including on the analysis of the implementation of the Recommendation;
- Further developing cooperation with member states and other international institutions, including the EU, to promote training, awareness raising etc.

Other proposals included: collecting and analysing data on the socio-legal position of LGBT persons, and proceeding to a cyclic analysis of data and of progress; taking action for protection against violence, including in the context of peaceful demonstrations, and providing support to law enforcement authorities; creating an observatory on the situation of LGBT persons; paying special attention to sensitive groups in order to improve their situation, by formulating indicators and setting up a system of collecting and control of relevant data, reinforcing co-operation with the non-governmental sector.

79. On the question of a periodical examination of the implementation of CM/Rec (2010) 5, seventeen member states were in favour of such an examination, fifteen did not reply to the question and one is against it, as it considers that it is the task of a member state to ensure that the Recommendation is satisfactorily implemented. One state indicated that the reply to the question would depend on the results of the first round of evaluation. Among the replies by those in favour, some elements deserve to be highlighted: a periodical examination would encourage continued progress in this domain and should take place every three to five years; and the examination should preferably cover the whole scope of the Recommendation rather than specific issues. If specific issues have to be considered, some states specified those most topical from their point of view, notably hate crime (including incitation through the internet and measures to encourage reporting), freedom of association, the right of peaceful assembly and use of public space, transgender and transsexual persons, education, health and employment, training of competent institutions and of the judiciary.
80. It has also been suggested that this review could be complemented by the collection and analysis of data on the living conditions of LGBT persons (for instance through the extension of the FRA survey to all 47 member states), and National Human Rights Institutions and NGOs should contribute to the examination.
81. The majority of the replies do not indicate issues on which the recommendation and its Appendix should be revised or completed. There are, however, suggestions that the Recommendation could address intersex persons and could encompass local and regional levels. A solution to these suggestions can be found in the information given by Finland, where the Recommendation is interpreted as covering other gender expressions and intersex persons, even though they are not explicitly mentioned in the text. One state indicated explicitly that the Recommendation should not be revised as it is the result of a careful negotiation.

### **Concluding Remarks**

82. The present report is aimed at highlighting the basic trends in the implementation of the Recommendation as shown by the replies to the Questionnaire. While some of the answers

discussed throughout this report are self-explanatory, several aspects deserve further reflection, especially in view of future implementation of the Recommendation.

83. The level of implementation is described by a majority of states as “adequate” or “fully satisfactory”. This encouraging assessment is supported by the various initiatives and good practices highlighted in the replies. The benefits of assistance programmes in the countries where these occurred is also visible and represents a positive example that could be pursued further.
84. Combating discrimination on grounds of sexual orientation or gender identity is a complex task, and the overall degree of compliance with the recommendation varies largely from one state to another and from one issue to another within the same state. As remarked by one state, some flexibility is required in carrying out - and also in assessing - the implementation of the recommendation. All replies naturally emphasise the positive achievements by member states, in some cases indeed remarkable, but the assessment by other actors of the overall implementation of the recommendation, may be different, although probably complementary, and the impact of these measures cannot be easily evaluated at this early stage.
85. One of the most important effects of the Recommendation that was mentioned in the replies is that it helped to identify improvements which need to be made in each state to fully ensure the enjoyment of human rights by LGBT persons without discrimination. Many states have reported having put in place measures to redress discriminatory provisions in their laws, or having adopted and implemented new measures. As regards disaggregated data collection, it appears that the number of states in which such data is available is still relatively limited. Even though effective legal remedies for victims and witnesses of discrimination are generally available in all states, the number of complaints remains low. The effectiveness of existing measures to raise awareness and facilitate access of victims to such remedies should therefore probably be questioned.
86. Among the mentioned obstacles to the implementation of the Recommendation are the following: practical and financial difficulties due to a lack of public awareness and resources; absence of political will to pass relevant laws; difficulties in the establishment of an adequate system of support and assistance to victims of violations; opposing political opinions at parliamentary level; stereotypes motivated by religion and lack of proper coordination between different ministries. Some states also reported that legislative provisions are not always applied and interpreted in the manner originally envisaged.
87. Translation of the Recommendation has already been carried out in at least twenty-one states, and various dissemination actions have been undertaken. This report might also be an appropriate occasion to invite all states to take the necessary measures to ensure that the Recommendation is translated and disseminated as widely as possible.
88. In most cases, the replies provided indicate that sexual orientation and gender identity are a prohibited ground of discrimination, be it explicitly or implicitly. In many areas, even in the absence of specific provisions or measures, the general laws are reported to effectively apply

and protect LGBT persons from discrimination. Moreover, many states provided examples of new initiatives or of interesting good practices on all areas dealt with by the Recommendation, which may serve as an inspiration for the action of other states.

89. Nevertheless, in the light of the answers provided, there are a number of issues emerging as areas which deserve attention in the implementation of the Recommendation. One important issue in this respect is the prevention and punishment of hate crime motivated by sexual orientation or gender identity, including as regards incitement to hatred and protection of victims and witnesses. As regards freedom of expression and of peaceful assembly, difficulties have been reported and should be addressed, in spite of a large majority of positive replies about the existence of appropriate measures to protect participants. With respect to education, anti-discrimination training or support and teaching aids are available only in a relatively limited number of states, even though measures are in preparation in many others. Sports also appear as an area where only a limited number of states seem to have taken specific measures.
90. The replies to the questions show that the situation of transgender persons, including various aspects of gender reassignment, deserves particular attention. More should be done against the discrimination on grounds of gender identity and the subsequent difficulty of transgender persons in enjoying their human rights. This seems for instance particularly relevant when assessing the replies under part I, also in comparison with action taken against sexual orientation-related hate crime and hate speech.
91. On the basis of the above, it is suggested to invite the Committee of Ministers to take note of this report and to encourage states to continue their efforts to implement the various provisions of the recommendation, and translate and disseminate it as widely as possible.
92. In addition, given that several states replied that specific issues in the Recommendation are currently under review or that they are in the process of legislative change, the Committee of Ministers may consider carrying out a further follow-up exercise in a few years' time. Such a follow-up could either be general, so as to allow a full comparison with the present report, or focus on particular issues like those indicated above.
93. While the revision of the recommendation and the adoption of new standards do not seem needed at this stage, it may be possible to consider the elaboration of a collection of good practices as a tool to facilitate the implementation of the Recommendation.
94. Building on the interesting results of on-going cooperation projects, further cooperation programmes targeting the specific needs of certain states in order to facilitate the implementation of the Recommendation could also be considered.
95. If the overall picture is encouraging, the full implementation of the Recommendation in all member states is an ambitious objective requiring time and continued targeted action. The Committee of Ministers could take action in order to mainstream LGBT issues in all the areas of activity of the Council of Europe, possibly by setting up a long-term action plan. In this case, the various measures indicated above could become part of such a plan.