



**REPUBLIKA HRVATSKA
PRAVOBRANITELJICA
ZA RAVNOPRAVNOST SPOLOVA**

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**Independent Expert on protection against
violence and discrimination based on
sexual orientation and gender identity**

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**Predmet: Report of the Independent Expert on protection against violence and
discrimination based on sexual orientation and gender identity**

Dear Sir,

Ombudsperson for Gender Equality of the Republic of Croatia as an independent body in charge of combating discrimination in the field of gender equality, among others, bears responsibility of collecting and analysing statistical data on cases of sexual discrimination. In order to contribute to more thorough knowledge on human rights implications of Croatia's activities related to gathering information on violence and discrimination based on sexual orientation and gender identity, Ombudsperson sends you the answers for your Call for input.

1. What are the current efforts by the States to increase their knowledge of the LGBT population? Specifically, are questions about sexual orientation and gender identity included in government surveys (e.g. the census, national health surveys, or other surveys funded or mandated by the State), administrative records (e.g. birth certificates/birth registries, identity Cards, school records, professional licenses, social security and public benefit records, and other government documents)?

Questions about sexual orientation and gender identity are not explicitly included in most government surveys. Generally, the Republic of Croatia does not have policies for increasing the knowledge of the LGBT population, except for basic statistical data on number of civil partnerships, number of requests to issue an opinion on the change of gender or the choice of life in another gender identity as well as the number of positive opinions issued in this matter and similar. Data on discrimination and hate crime towards LGBT people is collected and segregated by discriminatory basis by the Ministry of Justice regarding civil, criminal and misdemeanour courts, but the State Attorney's Office does not collect and segregate data according to different discriminatory basis for crimes or misdemeanours nor does Ministry of Internal Affairs for misdemeanours. When it comes to the administrative records, civil partnerships are entered into Register of Civil Partnerships as well as into Civil Status Record Concerning Birth. Extracts from those records are mostly used by citizens within the

procedures for achieving rights in front of civil servants representing public institutions. Social security benefits are for the most part connected with household members regardless of the type of their relationship. Ombudsperson for Gender Equality of the Republic of Croatia referred the directive concerning the issue of certificates and diplomas following the entry of a change of gender or choice of life in another gender identity into civil status records to the Ministry of Science and Education which promised it would draw up on the basis of Ombudsperson's instructions and in cooperation with the Ministry of Administration the official instructions for the procedure for all educational institutions aimed to protect the privacy of the individuals.

2. What kinds of data can be collected by government to understand the nature and extent of violence (e.g. through statistics on LGBT-phobic hate crimes and hate speech), discrimination and disparities in health, education, labour, civic participation and other important areas?

Data that can be indicative for establishing human rights situation of LGBT people are police, state attorney's and court's records on criminal and misdemeanour cases motivated by hatred towards LGBT population or by prejudice based on sexual orientation or gender identity (form of punishable offense, length of the procedure, type of court decision). Also, data on working disputes, especially concerning harassment and discrimination in employment and promotion. It is important to collect the data on harassment in education with the emphasis on widespread harassment on social media. Regarding civic participation, data on how many LGBT civil society organisations are funded from the national budget, data on approved applications for citizenship submitted by civil partner etc.

3. What safeguards are in place, and what safeguards are needed, to protect the human rights of individuals providing personal data as well as individuals collecting such data? This question includes following:

a. Safeguards to protect the privacy of individuals who provide data about their sexual orientation/gender identity, and the confidentiality of the data provided by these individuals.

b. Broader statutory rules or administrative policies to insure transparency and accountability of government institutions such as statistical bodies.

a. It is important to ensure that the minimum required number of persons gets an insight to personal data connected to sexual orientation/gender identity and that distribution of this data among different state institutions is limited as much as possible and that the necessity of such actions is justified. National legislation must treat such data as sensitive in nature.

b. Safeguards mentioned above are mostly already prescribed by the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

4. What are the risks associated with the collection and management of data on sexual orientation and gender identity and initiatives to overcome those?

It is important to make sure that data is in certain cases collected either anonymously or with the interviewee's consent in order to protect his/her privacy. It is also important that, when it comes to surveys, questions included do not use wording that would imply or bring to a conclusion which represents prejudice or stereotype. When processing-interpreting data, it is important to bear in mind that some inconsistency might appear, for example, police might record a discrimination as the one based on nationality, and that the court would find that it is actually based on both nationality and sexual orientation. Furthermore, it is very difficult to reach LGBT people who do not want to disclose publicly and openly their sexual orientation, gender identity or expression.

5. Are there circumstances where data collection is ill-advised, such as in countries that criminalize same-sex behavior or where particular government agencies have demonstrated a cause for concern regarding their treatment of issues related to sexual orientation and gender identity?

Ombudsperson did not receive complaints stating that data collection was ill-advised meaning that it would result in adverse treatment.

6. When States engage in data gathering activity, to what extent is civil society able to meaningfully participate in the design and implementation of these programs? This question includes the following:

a. Do states have policies that guide the process of civil society participation national statistical programs and other State efforts to increase knowledge about LGBT populations?

b. Does civil society have the capacity, in terms of expertise and technical knowledge, to meaningfully participate in State efforts to gather data?

c. What constitutes meaningful participation in this area?

a. The Republic of Croatia does not have policies that guide the process of civil society participation in national statistical programs but it sometimes supports and cofunds or funds researches conducted by civil society organisations.

b. One part of civil society has the capacity in terms of expertise and technical knowledge to meaningfully participate in country efforts to gather data.

c. Less formal structure and procedures of the civil society makes it more familiar to the persons it concerns which is why it is the first they turn to when they have problems of some kind. In this way civil society is important because it has first hand informations from the field and it can reach people more easily. So as to ensure meaningful participation in this area it is important for the government to establish stronger connection with the civil society and to consult it more often to determine key problems and areas that deserve special attention in sense of data collection as well as to take over the data already obtained by the civil society.

7. Does the lack of a global classification scheme carry risks that data will not be useful for international comparisons or will not accurately reflect the identities and lived realities of local populations?

A lot of data is difficult to interpret even by national experts. Different bodies collect and categorize data differently. It is right to conclude that data will not accurately reflect the identities and lived realities of local populations. Not only that the classification scheme needs to be uniformed on a global scale, but it first needs to be uniformed on a national scale.

Kind regards,

**GENDER EQUALITY
OMBUDSPERSON**



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