

*Постоянно представителство на
Република България при Службата на
ООН и другите международни
организации в Женева*



*Permanent Mission of the Republic of
Bulgaria to the United Nations Office and
other International Organisations in Geneva*

No 220

December 5th, 2024

The Permanent Mission of the Republic of Bulgaria to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, Special Procedures Branch and in response to Joint Communication Ref. OL BGR 1/2024 dated 14 October 2024 by the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, the Special Rapporteur on the right to education, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights of freedom of peaceful assembly and of association, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the right to privacy, has the honour to convey an information submitted by the Government of the Republic of Bulgaria regarding the Law on Amendments and Supplements to the Law on Pre-school and School Education adopted by the 50th National Assembly of the Republic of Bulgaria on 7 August 2024.

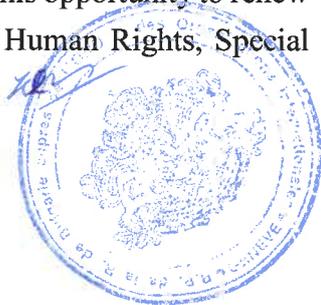
The Permanent Mission of the Republic of Bulgaria would highly appreciate if the aforementioned information, herewith attached, could be transmitted to the attention of the esteemed Special Procedure mandate holders cited above.

The Permanent Mission of the Republic of Bulgaria to the United Nations Office and other international organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights, Special Procedures Branch the assurances of its highest consideration.

Annex: according to text (1 file).

**OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS
Special Procedures Branch**

GENEVA



INFORMATION

submitted by the Government of the Republic of Bulgaria regarding the Law on Amendments and Supplements to the Law on Pre-school and School Education adopted by the 50th National Assembly of the Republic of Bulgaria on 7 August 2024

In response to Joint Communication Ref. OL BGR 1/2024 dated 14 October 2024 by the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, the Special Rapporteur on the right to education, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights of freedom of peaceful assembly and of association, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the right to privacy, the Government of the Republic of Bulgaria would like to submit the following information:

1. Additional information and/or comment(s) on the Law on Amendments and Supplements to the Law on Pre-school and School Education, adopted by the 50th National Assembly on 7 August 2024, including the Government's view on the analysis of the seven mandate holders.

In the Republic of Bulgaria, the principle of equality and non-discrimination is guaranteed at the highest legislative level. The Constitution of the Republic of Bulgaria prohibits discrimination in the most unequivocal way. No restrictions of rights based on race, nationality, ethnicity, sex, origin, religion, education, belief, political affiliation, personal and social status, or property status are allowed. This constitutional principle is embedded in all aspects of our domestic legislation.

All Bulgarian citizens are equal before the law. LGBTI persons have the same rights and obligations as all other persons. The national legal framework to counter hate crime, hate speech and intolerance, including against LGBTI persons, is up-to-date and robust. It is implemented in practice by fully-developed and well-functioning administrative and judicial systems. Hate crimes and hate speech are punishable and are investigated and prosecuted with the full capacity of the state.

In 2022 – 2023, the Bulgarian Criminal Code was amended and supplemented upon proposal of a group of parliamentarians, which led to the inclusion of the sexual orientation of the victim as an independent qualifying (aggravating) circumstance in a number of crimes - murder (art. 116, para. 1, item 11); bodily injuries (art. 131, para. 1, item 12); kidnapping (art. 142); unlawful imprisonment (Article 142a); illegal destruction or damage of someone else's movable or immovable property (art. 216) and open abetment to commit a crime (art. 320). Art. 162, art. 163, para. 1, and art. 172, para. 1 of the Criminal Code were also amended and supplemented in this regard - the elements under art. 162 and art. 163 were supplemented by "skin color", "sexual orientation" and "origin", and those under art. 172 - by "skin color" and "sexual orientation".

2. Details of the process by which the Amendment was developed, including of any consultation held with civil society, educational community and affected groups, and any prior impact assessment undertaken to ensure that the provisions contained in the Law comply with Bulgaria's obligations under international human rights law, including ensuring enabling and safe environment for the exercise of fundamental freedoms without discrimination.

The Amendments to the Law on Pre-school and School Education were submitted by a group of Members of the National Assembly. After the plenary debates, the amendments were adopted by the National Assembly with the required majority, in accordance with the Constitution of the Republic of Bulgaria. The National Assembly has the exclusive prerogative to define the national legislation, in accordance with the Constitution and the international legal obligations of the Republic of Bulgaria.

Article 5, paragraph 4 of the Constitution of the Republic of Bulgaria stipulates that international treaties which have been ratified by the National Assembly in accordance with the constitutional procedure, promulgated and have come into force with respect to the Republic of Bulgaria, shall be part of the legislation of the state. The same article states that such treaties shall have primacy over any conflicting provision of the national legislation. The Republic of Bulgaria is a party to all major universal treaties in the field of human rights, as well as to numerous regional ones.

The Government, together with all other institutions, is obliged to respect and implement the legislation that results from the democratic process in the country.

3. Details of how the domestic legal framework safeguards the rights of children and adolescents of diverse sexual orientations and gender identities, including the right to physical and mental health, as well as education, and how this Amendment is consistent with those legal requirements implementing Bulgaria's international human rights obligations.

The Protection against Discrimination Act, art. 4, explicitly prohibits any direct or indirect discrimination on grounds of sex, race, nationality, ethnicity, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or social status, disability, age, sexual orientation, marital status, property status, or on any other grounds established by law or by an international treaty to which the Republic of Bulgaria is a party.

The Protection against Discrimination Act refers explicitly to 19 grounds of discrimination, which is unique in Europe, as well as "other grounds established by law or an international treaty to which Bulgaria is a Party". This covers all possible forms of discrimination. The abovementioned Act establishes the Commission for Protection against Discrimination and gives it a wide range of powers – to ascertain legal violations, enforce compulsory administrative measures, impose fines, make proposals for relevant actions to the state and municipal authorities, train, certify, etc. When a complaint of discrimination is submitted to the Commission, it considers the case. The Commission has regional branches, covering the entire territory of the state.

According to the Child Protection Act, every child has the right to protection of its normal physical, mental, moral and social development and to protection of its rights and interests. In this regard, no restrictions of rights based on race, nationality, ethnicity, sex, origin, property status, religion, education and belief or disability shall be allowed.

The legal and administrative framework which guarantees the rights and dignity of all participants in the educational process, in pre-school and school education, is fully established and works effectively. When implementing the new regulations, the Ministry of Education and Science strictly observes the principles and norms of the national law, the EU law and international law in the field of human rights. Rule of law, respect for human rights and non-discrimination are guaranteed.

The Commission for Protection against Discrimination ensures the protection of the rights of children and adolescents, inter alia, by investigating, upon request, alleged cases of

discrimination in the exercise of the right to education, including harassment, sexual harassment, discrimination, persecution, racism, etc.

4. Information of how the domestic legal framework protects the rights of human rights defenders and those advocating for the rights of LGBT persons in Bulgaria, so that they can freely carry out legitimate work in a safe and enabling environment.

The right to freedom of expression and association are guaranteed by the Constitution of the Republic of Bulgaria, the Protection from Discrimination Act and the other relevant domestic laws.

Human rights defenders, including those advocating for the rights of LGBT persons, in the Republic of Bulgaria can freely and legitimately perform their activities in a safe and enabling environment.

5. Information about whether the impact of the Amendment on the exercise of the right to freedom of expression and the right to protect and promote human rights has been analyzed during the drafting process, whether members of the LGBT community will be able to express themselves freely, including on the matter of their own or others' sexual orientation or gender identity in a safe environment, as well as whether human rights defenders and organizations working on the rights of LGBT communities will be able to carry out their work in an enabling environment, free from intimidation or legal repercussions.

See information provided above. The Republic of Bulgaria is a free country, with well-established democracy. Nobody in the Republic of Bulgaria is prosecuted on the basis of his or her sex or sexual orientation. The freedom of expression is guaranteed. All NGOs, including those of the LGBT community, function freely. Every person or NGO, including the LGBT ones, which considers its interests affected, has the right to address itself to the law-enforcement and the judiciary, and find protection and justice, if necessary. The LGBT community is present and active in the public media, organizes public events and its members enjoy the same opportunities as all other Bulgarian citizens. LGBT people are present and prominent in all spheres of life in Bulgaria, including in the administration, media, arts, politics, academia and business.

6. Steps that the Government intends to take in order to review the analyzed legislation in view of the observations shared in the communication and the applicable legal rules and standards.

The observations shared in the Communication have been referred to the National Assembly of the Republic of Bulgaria, as well as to the competent ministries and other institutions.

The Ministry of Education and Science and all other competent institutions strictly observe the principles and acquis of the national, EU and international law in field of human rights.

The state and society of the Republic of Bulgaria are based on the values of freedom, democracy, rule of law and human rights. If and when deemed necessary, any legislation could be amended by the National Assembly, in accordance with the principles of the democratic political process.

Sofia, December 2024