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Delivered at the Hearing 'Understanding the Fight to Protect LGBTQI+ Rights in Europe and Eurasia, for the U.S. House of Representatives, Committee on Foreign Affairs, Subcommittee: Europe, Energy, the Environment and Cyber, taking place on June 11, 2021 11:00 AM.

Thank you Chair Keating and Ranking Member Fitzpatrick,

I appreciate the initiative for this hearing and your interest in the situation of LGBTI rights in Europe and Central Asia. It comes at a critical time, as the 2021 Rainbow Europe Map that we launched last month tells the story of widespread and almost complete stagnation on human rights of LGBTI people in Europe. We are at a juncture when governments in Europe need to step-up their commitment to supporting LGBTI rights, to avoid further backlash.

Many legislative processes have been stalled in Europe over the past 12 months, in countries including Cyprus, Czechia, Denmark, Finland, France, Italy, Kosovo, Lithuania, Moldova, Montenegro, the Netherlands, Sweden, and the United Kingdom. We also see the implementation of existing procedures, for example on legal gender recognition, worsening, including in Georgia, Spain, Serbia and Northern Ireland. Whilst legal protections against violence and discrimination exist in many countries, there remain too many gaps. Hate-crime laws are absent not just in countries like Armenia and Slovenia, but also in Germany and Ireland. The human right to self-determination is denied to transgender people in most countries, including in Greece, the UK and Switzerland. Whilst in previous years great progress has been made in protecting the rights of trans and intersex people, that progress now has come to a standstill. Millions of LGBTI families in the region today don't see their partners or children legally recognized. For more detailed information on the rights of LGBTI people I refer to our detailed Rainbow Europe Map.

Some countries in Europe may have been the beacon of hope for LGBTI rights globally, we now know that gained progress in our work towards equality provides no guarantees to the future. Covid-19 seems to have become an excuse for too many leaders in government in making progress on providing protection and equality through law, or to speak out to rising anti-LGBTI sentiments.

This is happening at time when we sadly see rising repression against LGBTI people in our region. The impact of anti-trans sentiments is felt across the region, not just in Eastern Europe and Central Asia, but also in places where historically more progress on LGBTI rights was made. These sentiments are not just conceptual debates on the notion of gender, unfortunately they deeply impact LGBTI communities. Organizations from across the region have reported increasing hatred, online but also in the streets. Transphobia, biphobia and homophobia may for some be the result of moral disagreements, for our communities they mean stigma, violence and discrimination.

Civil society space has been shrinking in countries such as Poland, Kyrgyzstan, Russia and Turkey – too often limiting the possibilities for LGBTI activists to exercise their human rights work. At the same time, LGBTI communities have increasingly called on LGBTI organizations for support. Over the past year many organizations provided humanitarian support to their communities as LGBTI people were not thought of in government's responses to Covid-19. Community members also increasingly turn to LGBTI organizations for legal and social support. Organizations in the region do this with very little resources. The U.S. State Department and USAID have been financially supporting the work of LGBTI movements globally for several years. It is critically important that this funding increases and continues to focus on the European and Central Asian region.

It would be easy to blame it all on political attention being immersed in the public health response to COVID-19 and the ensuing economic fall-out, but the reality is a lot more complex. In too many countries, progress is stopped because there's increased political polarisation on LGBTI issues, because some elected officials no longer see gains to be made by supporting LGBTI equality, and because governments don't see it as a priority issue. We do really need governments across Europe to relaunch their political commitments to see legislative processes through, and to give everyone the means to ensure full implementation.

Thankfully, in these difficult times, European institutions have stepped-up their work to support LGBTI rights. The European Union last year adapted the LGBTI Equality Strategy, which includes an extensive plan of action on many fronts. The Council of Europe created a new Steering Committee - the Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI), in 2020, which includes in its mandate further formalisation and integration of SOGI issues into the non-discrimination framework. Additionally, the Secretariat of the European Focal Points Network, civil servants who coordinate LGBTI work for their governments at interdepartmental level- was relocated to be formally hosted within the SOGI Unit, adding weight to this long-standing intergovernmental space and opening a path to formalised intergovernmental dialogue on SOGIESC issues.

The work of these institutions is worth flagging because it is important that the U.S. government seeks to cooperate with these initiatives in its work to support LGBTI rights globally. We strongly encourage Congress to work with its European counterparts and the Government to work together with the European institutions, not just in terms of promoting LGBTI rights abroad, but also in terms of working together to ensure that the human rights of LGBTI people are protected at home. For our movement, cooperation and alliance building is at the heart of future progress.

Further to this, members of this House can support LGBTI rights in Europe and Central Asia by ensuring consistent integration of Europe in broader foreign policy and development agendas. In places where governments are actively repressing LGBTI rights, it is important that LGBTI rights aren't singled out as a standalone issue, but instead made part of broader human rights agendas. When LGBTI rights are under attack, this is often part of wider government repressions. Indeed, LGBTI communities are often weaponized by political leaders as to cover wider efforts to undermine democracy. Effective responses then for instance ensure that so-called laws against the promotion of sexual orientation are

addressed in broader efforts to address freedom of expression. LGBTI civil society organizations are keen to be part of identifying effective responses, so that no unintended harm is done.

Thank you.

Executive Summary – Rainbow Europe Map & Index 2021

Rainbow Europe – ILGA-Europe’s annual benchmarking tool – comprises the Rainbow Map and Index and national recommendations. ILGA-Europe have produced the Rainbow Map and Index [since 2009](#), using it to illustrate the **legal and policy situation of LGBTI people in Europe**.

The Rainbow Map and Index ranks 49 European countries on their respective legal and policy practices for LGBTI people, **from 0-100%**.

In order to create our country ranking, ILGA-Europe examine the laws and policies in 49 countries using a set of criteria. From May 2021, the number of individual criteria used has risen to 71, divided between six thematic categories: **equality and non-discrimination; family; hate crime and hate speech; legal gender recognition and bodily integrity; civil society space; and asylum**. More information on the list of criteria and their weight on the total score can be found at www.rainbow-europe.org/about

Rainbow Europe 2021 **categories** and the **percentage ‘weight’** assigned to them remain exactly the same as the 2020 version. ILGA-Europe started assessing two new indicators: “Non-binary recognition” and “Legal gender recognition procedures exist for minors”. They are included under the category of legal gender recognition and bodily integrity; and the percentage ‘weight’ has been altered to accommodate these two new criteria.

Alterations to our criteria make year-on-year comparisons difficult, but certain lessons are clear – countries that are expanding their legislative horizons are moving up in the ranking.

Policymakers, researchers and journalists are able to go **‘behind’ the points** and see the original information sources that we base our Map and Index ranking on. This additional layer of information is available through **our updated Rainbow Europe web module**, www.rainbow-europe.org.

The Rainbow Map and Index presents a picture of what the policy landscape is like currently, while **our country-specific recommendations** attempt to answer the question **“what’s next?”** These recommendations are intended to encourage policymakers to address the most pressing legal and policy priorities within the framework of our Rainbow Map and Index. The recommendations were gathered following an online consultation with a wide range of LGBTI organisations in the various countries. As a result, the recommendations are tailored to the needs of activists working on the ground.

TOP 5, Rainbow Europe 2021	BOTTOM 5, Rainbow Europe 2021
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|-------------------------------------|-------------------------------------|
| 1. Malta (94%) | 45. Monaco (11%) |
| 2. Belgium (74%) | 46. Russia (10%) |
| 3. Luxembourg (72%) | 47. Armenia (8%) |
| 4. Portugal (68%) | 48. Turkey (4%) |
| 5. Norway (67%) | 49. Azerbaijan (2%) |
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For the sixth year in a row, [Malta](#) continues to occupy the number one spot on the Rainbow Europe Map, with a score of 94%.

[Belgium](#) comes second place for the fourth time with a score of 74%.

[Luxembourg](#) receives 72 points and occupies the third spot on the ranking for the third year in a row.

The three countries at the other end of the Rainbow Europe scale are [Azerbaijan](#) (2%), [Turkey](#) (4%), and [Armenia](#) (8%), exactly the same as last year.

[Denmark](#) is the country with the most dramatic drop in its score, **losing 3.80% points** in relation to the irregularities for the criterion on depathologisation, with access to trans-specific healthcare still linked with a mental health assessment in the country.

[Georgia](#) has also dropped by 3.73% due to the lack of clear procedure for legal gender recognition and the risky situation of LGBTI human rights defenders in the country.

Another important deduction happened, with [Ukraine](#) losing 3.5% points due to the expiration of the government's action plan.

[Malta](#), [North Macedonia](#), and [Bosnia & Herzegovina](#) are the three **countries with the biggest jump** in scores. [Malta](#) added sex characteristics under protected grounds in the Refugees Act and published new policy guidelines for LGBTI asylum claims. [Malta](#) also received points in relation to ILGA-Europe's new indicators ("Non-binary recognition" and "Legal gender recognition procedures exist for minors").

[North Macedonia](#) and [Bosnia & Herzegovina](#) had a big jump in their scores and rankings, due to the fact that freedom of assembly has been improving in both countries.

Equality and non-discrimination

Equality action plans have expired in [Albania](#), [Norway](#), and [Ukraine](#), while [France](#) and [Kosovo](#) have shortcomings and implementation problems with their action plans. [Finland](#), [Ireland](#), [Sweden](#), and [Germany](#)'s Saarland region's action plans were the only new ones that received points this year. Governments in [Bosnia & Herzegovina](#), [Czechia](#), and [Ukraine](#) are in the process of preparation of their next action plans.

[Albania](#) included sex characteristics protection in **anti-discrimination** legislation. The region of Cantabria in [Spain](#) introduced a new anti-discrimination law protecting on the ground of sexual orientation, gender identity, and sex characteristics. A court in [Poland](#) clarified that law prohibits discrimination based on gender identity at workplace.

[Portugal](#) and [Northern Ireland](#) (UK) revoked all restrictions on LGBTI people for blood donation, making it possible for everyone to donate blood safely and equally. [Ukraine](#) announced a similar change, but it hasn't been enacted yet.

Family

Recognition of family legislation is stagnating across Europe. This year, there was no single legal or policy change affecting LGBTI people.

Hate crime and hate speech

[Norway](#) was the only country to extend legal protection from hate crime, amending its Penal Code to add gender identity ground.

Legal gender recognition and bodily integrity

Since 6 January, 2021, legal recognition for non-binary people has been implemented in [Iceland](#), making it the only country in Europe to advance trans rights in the last 12 months.

Trans-specific healthcare became almost impossible to access in [Northern Ireland](#). Activists' reporting has revealed that trans people are unable to access the medical reports required to go through these processes without paying for private care, thus creating a class barrier to accessing LGR.

Civil society space

[North Macedonia](#) and [Bosnia & Herzegovina](#) have had no state obstruction of freedom of assembly within the past three years and Pride events were adequately protected by police.

[Poland](#)'s civil society space has shrunk more this year, because people are being actively attacked by the police during public events, instead of being protected. Poland also lost points related to freedom of expression, due to the anti-LGBT resolutions that have been passed by local governments.

The other country with a negative trend in this regard is [Georgia](#), which lost points with LGBTI human rights defenders at risk, due to a large number of attacks over the last 12 months.

Asylum

[Malta](#) introduced new amendments to the Refugees Act and published new guidelines on asylum claims. This was only development regarding protection of LGBTI asylum rights in the last 12 months.

[Finland](#)'s policies regarding LGBTI asylum seekers were criticised by LGBTI civil society for being only project based and not creating any systematic approach or policy. Points were deducted by ILGA-Europe from Finland, based on this report.