



Expert Council on NGO Law

Study of less favourable treatment of NGOs

May 30, 2023

Questionnaire

Background

This questionnaire is concerned with NGOs that are treated less favourably than other NGOs because of the objectives and/or activities that they pursue. It aims to understand the difficulties that NGOs face because they work on a particular topic or in support of a particular group, for example, work to promote women's rights or to combat corruption. The questionnaire's focus is on the specific difficulties that these NGOs face *in addition* to those faced by all NGOs operating in your country.

The questionnaire has been prepared by the [Expert Council on NGO Law](#) of the Conference of INGOs of the Council of Europe. The questionnaire will be distributed to NGOs working in each of the 46 Council of Europe States and Kosovo,* as well as ones from Belarus and Russia.¹ The results will be compiled in a report and utilised in advocacy efforts aimed at combatting the trend of restricting the legitimate activities of NGOs across Europe.

For the purpose of this questionnaire, NGOs are understood in a broad sense as groups separate from the State who organise themselves to pursue shared non-profit objectives. Informal groups and movements are also invited to complete the questionnaire. This study does not cover political parties or trade unions.

Examples of less favourable treatment are provided in question three but broadly this includes any type of restriction or detriment, for example criminal charges, and being excluded from advantages such as funding or public promotion.

We are keen to understand the differences between any *official* reasons given for less favourable treatment and the reason that you understand restrictions have been imposed, for example, because of discrimination or other ulterior motives.

We would be grateful for any case studies. Please include links to publicly available stories and information, court judgments, legislation, policy documents or other relevant materials if you have these. If you share case studies, please let us know if you consent to them being shared in the published report.

^{1*}All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations' Security Council Resolution 1244 and without prejudice to the status of Kosovo. This may include NGOs located outside of their home State due to the current human rights situation.

We will not publish your completed questionnaire, but we may share summarised information or short quotes from it in the published report. We will not publish the names of those who complete the questionnaire. If you have any specific requests or concerns in relation to confidentiality or use of information, please note them on your completed reply or contact us to discuss these.

If you have any questions, please contact EC.Study@coe.int. Please return the questionnaire to EC.Study@coe.int by 31 May 2023.

Questions

1. Please provide your name and email address, the organisation you represent (if relevant) and specify which country you are providing information about.

Name of responsible person: *Levan Berianidze*

Name of the organization: *GATE - Global Action for Trans Equality*

Email address: *info@gate.ngo / lberianidze@gate.ngo*

Countries: *Spain, Russia, The UK, Germany, Norway, Armenia, Georgia, Montenegro, Netherlands, Estonia, Serbia, Portugal, Malta, Romania, Bulgaria, Croatia, Denmark, and Switzerland*

Name of responsible person: *Vanya Solovey*

Name of the organization: *TGEU - Transgender Europe*

Email address: *tgeu@tgeu.org / vanya@tgeu.org*

Countries: *Hungary, Russia, Slovakia*

2. Are some NGOs in your country treated less favourably than others because of the objectives and/or activities that they pursue? If so, what is the nature of the objectives/activities that lead to this?

According to the survey² conducted by GATE in 2022 among TGDI and wider LGBTQI organizations and collectives in the CoE region, certain NGOs may experience less favorable treatment compared to others due to the objectives and activities they pursue. Specifically, NGOs and (unregistered) activist collectives focused on trans, gender diverse, and intersex (TGDI) rights, as well as the broader lesbian, gay, bisexual, trans, queer, and intersex (LGBTQI) communities, face the following main challenges:

- A. Antigender, anti-LGBTQI, and anti-rights politics and groups: There has been a rise in political movements opposing LGBTQI individuals, particularly targeting TGD communities. These movements create a hostile environment for NGOs and activist collectives working on these issues.*
- B. Lack of government political will: Some governments demonstrate insufficient commitment or effectiveness in addressing alleged crimes, holding accountable those responsible, and countering violent actions and disinformation spread by anti-gender and anti-rights groups.*
- C. Legislative measures targeting LGBTQI activism: Various legislative measures directly impact TGDI and broader LGBTQI activism, imposing restrictions and hindrances on their work.*

² GATE. (2023). *Impact of Anti-Gender Opposition on TGD and LGBTQI Movements: Global Report*. New York: GATE. Available at:

https://gate.ngo/wp-content/uploads/2023/03/Global-report-on-the-impact-of-AG-opposition-on-TGD-and-LGBTQI-movements_GATE.pdf

- D. *Political developments affecting human rights and freedoms: Recent political developments in Europe, such as Russia's war against Ukraine, have led to a rise in politics that undermine human rights, including freedom of speech and expression.*

These factors collectively contribute to the less favorable conditions, sometimes dismantling the very conditions for positive change for certain NGOs and activist collectives in the CoE region that focus on TGD and LGBTQI rights.

Information gathered by the TGEU from its member organizations illustrates this in the following cases:

*In **Russia**, NGOs and unregistered groups working with LGBTIQ communities are persecuted both by societal actors and by the government. Furthermore, the Russian state currently discriminates against all civil society actors and independent organisations and groups whose work and objectives are not pro-governmental. Since Russia's full-scale invasion of Ukraine, civil society actors have been persecuted for anti-war activities and statements.*

*In **Hungary**, most of the NGOs have difficulties of some sort but NGOs that deal with human rights, refugee issues and especially with LGBTQI issues are treated more harshly. Attacking and questioning the motivations of NGOs that operate with international funding is also a visible trend, especially since 2016 and the refugee crisis. These NGOs are usually the ones that deal with human rights issues and put these issues in the spotlight, sometimes with international press and political attention.*

3. What form does this less favourable treatment take and is it based on law, on policy or is a matter of practice?

In GATE's survey, respondents from the CoE reported that the governments rarely investigating alleged crimes committed by antigender actors is a widespread problem (this was reported by respondents from the following countries: Malta, Russia, the UK, Germany, Georgia, Armenia, Netherlands, Serbia, Portugal, Bulgaria, and Montenegro).

- A. **Verbal attacks** against TGD and or wider LGBTQI activists are common (in Spain, Russia, the UK, Germany, Norway, Armenia, Netherlands, Estonia, Portugal, Malta, Montenegro, Croatia, Switzerland, and Georgia). In most cases, authorities are not notified. A lack of trust in these authorities may explain this. Some activists reported that reported cases do not materialize in holding antigender actors legally responsible.

"Most of these things happen through social media and are mostly related to children, such as being accused of influencing children to become transgender, sexualizing them, and overall "doing the devil's work," to scare their followers away from the work that we do. They also spread a lot of misinformation about our organisation such as who our members are, what our agenda is, etc. In previous years, the leader of such a group had already lost a defamation court case against us, and nowadays, they seem to be more aware of how to not explicitly break the law again." - wrote a respondent from Malta.

"3 leaders of the main anti-LGBT anti-gender group Alt-info/Conservative Movement of Georgia made open and public threats to Tbilisi Pride week 2022. The fact that the demonstration organized by Alt-info in 2021 (July 5) was extremely violent (journalists/people were attacked, beaten, stabbed, and Tbilisi Pride offices were ransacked) made the new threats in 2022 feel real, imminent, and dangerous. Tbilisi Pride approached relevant ministries and government bodies about the threats. The investigation was immediately launched. But the problem is usually not opening a case/starting investigation but effective investigation." reported a respondent from Georgia.

B. **Physical attacks** are rare but happen (sometimes frequently) in Russia, Georgia, the UK, Norway, and Armenia.

“In the course of these events around the postponed talk at one university, the house of an outspoken trans activist was attacked. Attacks on Prides appear to be more frequent. There were also attacks by TERF groups on Prides. Single trans and gender diverse people have been more frequently attacked and harrassed comparing 2021 to 2020.” - wrote one respondent from Germany.

“Nordisk Motstandsbevegelse, the nazi group, has previously threatened and demonstrated against Pride and “The Gay Lobby.” It has yet to be confirmed whether the terrorist (Zaniar Matapour) behind the recent shooting at a gay club in Oslo is connected to any groups.” wrote a respondent from Norway.

“Anti-trans movement has enlarged in Armenia since June 2022, and several cases of attacks were made on trans people who were reported by community-based organizations.” wrote another respondent from Armenia.*

Another activist from Georgia pointed to a recent violent demonstration in Tbilisi, writing, “July 5th, 2021 - https://en.wikipedia.org/wiki/2021_attack_on_Tbilisi_Pride”.

C. **Threats** against activists also occur, mostly on social networks, and the police are usually not notified. The police are usually not notified because the activists think that the incident is not serious enough for reporting.

“Videos in social media encourage violence and murder towards gay people. Shared between radical Islamists on social media before the [Oslo] shooting.” - respondent from Norway.

“We were placed on the Gender Mapper map used by gender-critical groups to target trans healthcare (we are not a healthcare organisation). This map is promoted widely by Anglophone gender critical activists as well as far-right actors.” - respondent from the UK.

According to gathered data by TGEU:

Slovakia: an LGBTI+ activist reports that organisations working on the topic of gender-based violence did not receive funding from public sources due to a conservative attitude of the Ministry of Social Affairs leaders.

Hungary: The Hungarian government has a long history of trying to dismantle NGOs and civil society at large. Legislation, verbal attacks from politicians and public figures, and media attacks are regular. The government consistently refuses to consult, negotiate and seek advice from civil society. There are local and smaller NGOs and civil society actors that still have a chance to win funding from the government, but many rely mostly on international funds and donations. Advocacy and representation have also been made harder during the past few years, specifically for organisations dealing with LGBTQI issues - for example, they cannot reach out to schools. Fortunately, most NGOs are trying to find ways to work around these systems and find ways to keep working and keep speaking up against any injustice.

Russia has recently introduced several laws discriminating against trans and LGBTIQ groups: 1) the [“foreign agents” legislation](#) targeting both organisations and individuals; 2) the 2022 [anti-LGBTIQ gag law](#) (known as “gay propaganda” law) has banned providing information on LGBTIQ issues to audiences of all ages and specifically banned educating children on gender identity. Besides this, public officials and influential opinion leaders make hostile anti-LGBTIQ statements massively and systematically.

Several trans organisations in Russia and individual LGBTIQ activists have now been designated foreign agents. For individuals, the status entails work restrictions (ban on any educational activities) and extensive reporting to the Ministry of Justice; according to a Russian trans activist, it effectively “forces people to leave the country, as it becomes unbearable for them to live in Russia”. An example is Tyler Nazarov, a trans activist and volunteer for T Action, a trans group based in Saint Petersburg, who [left Russia immediately](#) after finding his name published on the Ministry of Justice website.

For organisations, besides extensive reporting, being named “foreign agent” blocks any work with institutions, such as training medical professionals on trans-specific healthcare or non-discrimination. Organisations are also required to add a disclaimer about their “foreign agent” status to all publications, including social media posts. Personal data of group foreign agents’ leaders are published on the Ministry of Justice website, which creates risks of harassment and physical attacks.

The anti-LGBTIQ gag law has blocked public awareness-raising and educational activities by LGBTIQ groups. As a consequence, most groups have introduced heavy self-censorship. As an activist reports: “both individual activists and organisations or initiatives working for the community have had to review all their publications (removing any verbs in imperative, for example), delete previously published materials, etc.”

T Action, a Saint Petersburg trans group, was designated foreign agent in November 2022. The group was heavily involved in public awareness raising on trans rights and knew they were under surveillance. To avoid further repression under the anti-LGBTIQ gag law and to be able to continue their media activities, the group stopped using all references to trans people. They have renamed all their social media accounts and constructed a code language, referring to an imaginary animal character (Kilkot, half-fish and half-cat) as a substitute for trans people. They have since been using this code language in all their publications.

Trans activist Yan Dvorkin, head of Moscow-based trans group Centre T, has been [sentenced](#) in court to a fine of over 1000 Euros in equivalent under the anti-LGBTIQ gag law for his blog posts about his family life (he has a partner and a child). The fact that he writes about his romantic relationship as a trans person and is at the same time a parent was deemed “propaganda” by the court.

4. Who is the source of the less favourable treatment, e.g., the authorities, media, corporations, public, particular groups of the public? What, if any, reason do they give for this?

In GATE’s survey, respondents reported that some members of antigender actors are in the government (Spain, UK, Germany, Norway, Portugal, Romania, Bulgaria, Montenegro, and Switzerland). In some geographical contexts, antigender groups are government actors (for example, in Russia, Azerbaijan, and Georgia). In several cases, governments and AG actors have coordinated communication (Spain, Russia, Georgia, and Estonia) and are supported with financial resources (Russia, Georgia, UK).

Many times, anti-gender groups also take the form of social movements and political parties. Antigender groups being political parties have been reported in the following countries: Spain, Russia, Germany, Norway, UK, Portugal, Romania, Serbia, Netherlands, Portugal, Montenegro, Switzerland, and Georgia) and antigender actors having seats in the parliaments or other similar national legislative institutions were reported in Spain, Russia, the UK, Germany, Norway, Estonia, Portugal, Serbia, Romania, and Georgia.

“Western Ideas,” “traditional family values,” “propaganda of homosexuality,” “NATO threat,” abortion, protecting children, “trans lobby,” “erasure of sex,” “Sex-based rights” (in The UK), sex education, trans women in sports, “gender ideology,” migration, and traditions and history are reported as issues and/or discursive points to legitimize violence and discrimination of activists fighting for equality of TGDI and wider LGBTIQ communities.

*In an update from **Russia** collected by TGEU in 2023, activists unanimously agree that the government is the main source of persecution. According to a trans activist, the anti-LGBTIQ sentiment in Russia “is governmental policy rather than coming from any individual actors.” In public statements, the president and other government officials frequently refer to LGBTIQ people, recently specifically trans people, as associated with the “collective West” and thus threatening not only “family values” but also “national security.” Some activists suggest that Russia’s war against Ukraine plays a role in the fuelling of the anti-LGBTIQ hostility: on the one hand, LGBTIQ people are used as scapegoats to distract the public from the many real political and economic issues as a result of the war, on the other, some suggest that the government is attempting to unite and mobilise society by fuelling anti-trans and broader anti-LGBTIQ hatred.*

*In **Hungary**, according to activists, the less favorable treatment also stems primarily from the government but as a result of the way the semi-authoritarian nature of the state tends to trickle down into every part of the society. Protecting families, women and children, protecting the “Hungarian way of life”, fighting back against influence and the advances of the “West” are most common narratives and reasons in order to justify attacks on human rights, NGOs and civil society actors. It started with shifting the rhetoric of the ruling party, which happened in parallel with the media shifting its narrative - two thirds of the country’s media companies, including the public service stations, are owned directly or indirectly by people close to the government.*

5. What is the extent of the less favourable treatment (how many NGOs does it impact and for how long has it been occurring)?

GATE’s data only focuses on TGDI and wider LGBTIQ organizations and collectives in the CoE region in the year of 2022. In rare cases, general human rights organizations working on TGDI or LGBTIQ issues have been impacted.

Overall, the antigender opposition negatively impacts pro-TGD/LGBTIQ rights groups’ ability to operate and advocate for positive changes, with psycho-emotional stress and burnout among staff, board, and/or volunteers being the leading vulnerability. The full picture of the problems experienced by pro-TGD/LGBTIQ groups as a result of AG opposition is as follows:

- None - 8.11%
- Limited access to funds - 10.81%
- Operation becoming illegal or harder/legally more constraining - 10.81%
- Need to change physical office - 10.81%
- Need to change legal status - 2.70%
- Need to stop operations temporarily or permanently - 16.22%
- Need to cancel events - 18.92%
- Fewer advocacy opportunities / limited ability to reach decision-makers - 29.73%
- Limited opportunities to involve allies in activities - 27.03%
- Need to relocate staff/board/volunteers due to threats - 13.51%
- Less ability to implement long-term strategy and a need to modify it to respond to attacks - 24.32%
- Fewer community members accessing services - 21.62%
- Psycho-emotional stress and/or burnout by staff/volunteers/board - 64.86%
- Internal conflicts - 13.51%
- Staff/volunteers/board leaving their positions - 13.51%
- Physical harm to staff/volunteers/board - 5.41%
- Legal threats and/or proceedings - 21.62%

Information gathered by TGEU shows the following:

In **Russia**, activists report that the scope of discrimination and persecution has expanded over the years. Initially, only the more prominent organisations and activists and those that were working publicly were targeted. Now, according to activists' assessment, all LGBTIQ groups and activists can be targeted. In terms of a timeline, activists place the start of persecution at 2012 with the first "foreign agents" law and 2013 with the first all-Russian anti-LGBTIQ gag law. Activists report several waves of toughening restrictions since, with the most recent one following the beginning of the full-scale war against Ukraine in February 2022.

In **Hungary**, according to TGEU's informants, the most overt attacks started in 2016 during and after the so-called "refugee crisis." At that time, it was mostly larger NGOs that were part of international networks or had a longer history of standing up to protect human rights were attacked, at first in statements by politicians then in legislation by the government. Despite the fact that these laws were targeting primarily a handful of specific organisations, however, they have made life harder for almost all NGOs. According to local activists' assessment, a substantial part of the country's NGOs experienced some sort of impact.

6. Has this less favourable treatment ever been challenged by the NGOs concerned or anyone else through informal methods, such as advocacy efforts, or through more formal methods such as via complaints bodies, ombuds offices, national human rights institutions, national courts or international or regional human rights procedures? If so, what was the outcome?

In GATE's survey, respondents from the CoE countries reported that, in most cases, the law enforcement authorities were not notified. Police either do not open a case due to lack of proper legislation or open an investigation but do not hold the antigender actors legally responsible.

TGEU's informants from **Hungary** report that the less favorable treatment was challenged by the NGOs in question, protests were held, international leaders and the European Union voiced concerns and issued statements condemning the government for these actions, a handful of independent domestic actors have reported on the matter and it got some international press attention as well. But generally speaking, it didn't really bring about any change in the government. Some public officials might have gotten somewhat less vocal on the issue, but no effort has been made to repair the damage caused by the harmful legislation or rhetoric.

In **Russia**, several organisations and individual activists designated "foreign agents" have gone to court to challenge the status. The Humanitarian Action, a Saint-Petersburg-based organisation working with HIV-positive people and drug users, [was able to successfully challenge the status twice](#): in 2020 and in 2022. However, our informants report that staff members of Humanitarian Action are still being harassed by the FSB (Russian special services), who call them on their phones and invite them to informal conversations, a common tool of intimidation.

Advocacy efforts to counter persecution are largely believed to be unproductive since the cause of the persecution is systemic and has to do with governmental policy.

However, several groups and individuals have chosen not to comply with the requirements imposed by the "foreign agent" status, i.e. not to submit reports to the Ministry of Justice or add disclaimers on their "foreign agent" status in publications and social media posts. As non-compliance entails further risks, it is mostly practiced by individuals who have left Russia or by informal groups that have no official registration, they also use additional security measures to protect themselves and their members.

7. What do you think would help to combat less favourable treatment (e.g., improved legal frameworks or public engagement), and what support would assist these NGOs to better carry out their work?

In GATE's survey, when asked, "In your view, what are the biggest challenges to countering anti-gender mobilization?" respondents from the CoE region responded in the following manner:

- *Lack of proper legislation - 57.14%*
- *Lack of political will - 60.00%*
- *Government is siding with anti-gender movements - 40.00%*
- *There are powerful anti-gender actors within the government -37.14%*
- *Lack of interest/actions from international organizations- 28.57%*
- *General failure to hold perpetrators accountable / lack of police effectiveness -60.00%*
- *Antigender groups are hard to identify -20.00%*
- *Homosexuality and/or trans and gender diverse people are criminalized -17.14%*
- *I don't know - 0.00%*
- *Prefer not to answer - 2.86%*

According to the data gathered by TGEU:

*In **Hungary**, TGEU's informants suggest that a better legal framework would be essential for NGOs and civil society to operate in a sustainable way while also being able to help their respective groups. Since the ruling party in Hungary has a legislative majority, they are capable of passing laws and legislation in a day and they don't have to reach an agreement or negotiate with anyone. However, previous experience has shown several times that pressure from international actors can produce some effect. According to activists, larger and more visible public engagement would also be crucial.*

*In **Russia**, all activists surveyed concur that there are no mechanisms left to exercise any pressure on the authorities. According to one of the informants: "A regime change might help. No lobbying, no courts can, because this is direct governmental will, a cornerstone of the state policy, its very essence." Remaining LGBTIQ groups are largely focused on maintaining their activities and surviving but also acutely aware they might need to leave the country at any time. Protection measures are an urgent need, including humanitarian visas to safer countries and other evacuation support.*

8. Please provide any further information that you think will be helpful.