Rights of LGBTI People in Bulgaria in 2018

The lesbian, gay, bisexual, transgender and intersex (LGBTI) people in Bulgaria face social and legal obstacles and discrimination which are not experienced by heterosexual and cisgender people. In 2018, the opening of the first in Bulgaria LGBTI community centre, Rainbow Hub, marked an important development for the LGBTI community.[1]

However, no significant progress was made on the issues of the equality of these groups. On the contrary, in the first half of 2018, in connection with the attempt to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention), a toxic debate began which created a problem with the use in the text of the Convention of the word *gender* (in English) or *genre* (in French).[2] This word was declared a dangerous ideological concept seeking to eliminate the differences between men and women and to fundamentally change the understanding of the sexes. The homophobia and the transphobia were the main arguments in this debate, and the opponents of the Convention were successful and the Constitutional Court impeded its ratification.

The most pressing issues for the LGBTI community remain the access to education on the sexual and reproductive health of their communities, the legal framework of same-sex marriage, the lack of a facilitated and free administrative procedure to change civil gender along the one-stop shop model, and changing the medical standards and practices affecting mental illness and genital development anomalies. The main challenges to progress are the lack of expert and public debate on the listed issues, lack of policy ownership, lack of resource support and strategic planning by the civil society organisations of these communities, lack of developed and prominent community life, and the fact that the vast majority of LGBTI people continue to live concealing their identity. In 2018, a new obstacle was added: the mobilised and well-financed movement of the conservative reaction, working against the advancement of the rights of the women (mostly in the reproductive sphere) and the LGBTI people.

Hate crimes and hate speech

In the Criminal Code in force, preaching or inciting to discrimination, violence or hatred, as well as the use of violence, damage to property and the formation of, directing or participating in an organisation, group or crowd for the purpose of committing these acts on the basis *of sexual orientation*, *gender identity* or *gender expression* of victims are not treated as criminal offences, as is the case when they are committed on the basis of race, nationality, ethnicity, religion or political belief (Articles 162 and 163 of the Criminal Code).

---

[1] Official website: http://lgbti-center.bg/.

[2] Gender (Lat. Genus), is an English word denoting a grammatical category, which in the 1970s was borrowed by US feminists to denote the social or cultural significance assigned to certain behavioural and physiological characteristics such as ‘masculine’ or fit for males, and as ‘feminine’ or fit for females, e.g. the designation of the blue colour as fitting for boys and of the rose colour as fitting for girls. The feminists point out that these differences are based on the sex but do not arise from it, but from the culture that attributes gender-related significance to things that are objectively not connected to gender. This social significance, a non-physical dimension of sex, is the *gender*.

Contrary to racial or ethnic hate speech, hate speech based on *sexual orientation* may be penalised only under the administrative or civil law provisions of the Protection against Discrimination Act. The general statute of Article 320 § 1 of the Criminal Code, for which there is no case-law, is the only possible criminal remedy for such a speech. In its practice, the Bulgarian public prosecutor's office refuses to institute pre-trial proceedings for public calls to homophobic violence, and if there were any pre-trial proceedings for such acts with this legal qualification, the case has never reached the trial stage.

There are no aggravated circumstances for murder and bodily injury on *homophobic and transphobic grounds*, unlike what is available for acts of racist or xenophobic motivation (Article 116 § 1 (11) and Article 131 § 1 (12) of the Criminal Code). There is no case-law to accept that committing the acts on such basis is an aggravating circumstance.

In June 2018, the SCC issued its final judgment on the case of the homophobic killing of a 25-year-old student of medicine, Mihail Stoyanov, in the Borisova Gradina Park in 2008. Stoyanov died after being beaten by a group of young people who in the pre-trial proceedings admitted that had gathered in the park — in an area where gay men set their sexual dates for decades — to "cleanse it" of gays. In 2015, the Sofia District Court as court of first instance established that homophobic motives were behind the formation of the intent of violence against Stoyanov, but that the initial intent was not to commit murder, which had occurred during an occasional (sudden) intention.[3] The Sofia District Court ruled that the homophobic motivation of the perpetrators was an aggravating circumstance, as it was an expression of contempt for the individual rights of others, their bodily integrity and the rule of law in society, which pointed to an increased risk for the public.

In 2016, the Sofia Administrative Court as appellate instance ruled that the acts of the defendants were guided by homophobia and not by hooliganism, and therefore found that there was no justification for the complaint of the private prosecutor in the case that the court had incorrectly acquitted the defendants for the qualification of the act as committed on hooliganism.[4] The cassation instance briefly and implicitly confirmed the finding of this void in the law, but amended the convictions of the defendants, with no mention of homophobia among the aggravating circumstances, thus eliminating its recognition by the court of first instance.[5]

Equality and non-discrimination

Article 6 of the Constitution of the Republic of Bulgaria enshrines equality before the law on the basis of an exhaustive set of characteristics: race, nationality, ethnicity, gender, origin, religion, education, beliefs, political affiliation, personal and social status and wealth. These characteristics do not include *sexual orientation* and *gender identity or gender expression*.[6]

[3] Sofia City Court (2015). Sentence No 199 of 22.06.2015 criminal case No 3766/2013, 28th panel.
[4] Sofia Administrative Court (2016). Decision No 330 of 12 July 2017 on appellate criminal case No. 84/2016, 5th panel.
[5] Supreme Cassation Court (2018). Decision No 39 of 21 June 2018 on criminal case No 1258/2017, 3rd penal division.
[6] The latter two, in line with the wording of Directive 2012/29/EU of the European Parliament and of the Council.

The Criminal Code still contains the vicious doctrine that rape is regarded only as an act performed by a man against a woman, specifically through forced penile-vaginal penetration. As described above, in some cases other types of sexual coercion are treated as less serious crimes. All other types of sexual coercion, including forced oral or anal entry, regardless of whether performed with a penis, another part of the body or with an object, are regarded as "sexual abuse".[7] Forced penile-vaginal penetration, where the victim is an adult, is punished by 2 to 8 years of imprisonment under the main statute (Article 152 § 1 of the Criminal Code). The same penalty is also foreseen for forced penile-vaginal penetration (sexual intercourse) when the perpetrator and the victim are male, which, however, has a distinct statute (Article 157 § 1 of the Criminal Code) and is not referred to as "rape". However, the sentence would not be the same if the perpetrator and the victim were female and the forced penetration was carried out not with a penis but, for example, with another body part or with an object. Regardless of the fact that this is commonly understood as rape, the legal definition of rape in the Criminal Code treats similar attacks as lighter in comparison to penile penetration. The reasons for this are unclear. The treatment of rape in Bulgarian criminal law as forced penile-vaginal penetration that is not the same as sexual abuse starts at least with the 1896 Criminal Act and is not unique to Bulgaria. However, while in many other countries this crime has long been regarded as gender-neutral, in this country the doctrine remains conservative and therefore trivialises a wide range of sexual abuses.

Furthermore, the Bulgarian criminal doctrine does not recognise the possibility of rape as a hate crime, i.e. victimisation one the basis of a group to which the victim belongs. It is only understood as an action aimed at achieving sexual satisfaction.

PADA provides protection against discrimination based on *sex*, *sexual orientation* and *genome* (Article 4 § 1). The latter is important in many of the intersex conditions. The ban is absolute, for "any" discrimination, and all persons, natural and legal, including public institutions, are covered by the law. However, gender *identity* or *gender expression* are not included among the grounds protected by law. According to § 1 (17) of its additional provisions, the "sex" attribute also includes cases of "sex reassignment". This text transposes Directive 2006/54/EC of the European Parliament and of the Council into national law. However, the expression "gender reassignment", adopted mechanically by the Directive, leaves room for a restrictive interpretation which would only recognise protection only for post-operative transgender people. In this way, there is a risk of deprived of protection both pre-operative transsexual people and transgender people in general, as well as those who do not feel that they belong to the man-woman gender binary (genderqueer) and do not go through gender reassignment. There is no case-law to support or reject this assumption.

As is evident from its very title, the Equality between Women and Men Act, adopted in 2016, only regulates equality in the context of the gender binary and does not recognise the existence of persons outside it.

Private and family life

---

[7] SCC (2010). Decision No 122 of 25.03.2010.

People in same-sex couples have a de facto family life, bearing all the effects of family life in opposite sex couples, including moral and property relationships arising between those involved in the actual family. However, Bulgarian legislation does not provide a legal form (legal statute) for the occurrence of family relationships and other legal consequences for the families of same-sex couples. The Bulgarian legislation foresees only one legal form that gives rise to family relationships: the marriage. Both the Constitution (Article 46 § 1) and the Family Code (Article 5) define the marriage as a voluntary union only between a man and a woman, but not of persons of the same sex. There is no legal form in the legislation regulating the relationship of de facto families, such as civil partnership, registered partnership, civil cohabitation, etc. The Bulgarian legal doctrine knows the so-called *factual cohabitation*, as separate laws,[8] and case-law, primarily that of the former Supreme Court, recognises[9] its statutory power and limited consequences arising from it with regard to family relations and civil law. There are more than 50 rules in the legislation governing a number of rights, obligations, responsibilities or restrictions which are not applicable to the *de facto* cohabitating persons of the same sex, or from which these persons are deprived. These include the right to visitation, parental custody, the matrimonial property regime, entitlement to certain types of leave, to a widow's pension, to certain types of benefits and to benefits for the death of the partner, to protection from domestic violence, to tax relief, etc.

A marriage between persons of the same sex concluded under the law of a foreign country should be recognised by the Republic of Bulgaria (Articles 75-77 of the Code of International Private Law). There is no legislative obstacle to entering in a marriage with a person of sex opposite to the changed civil gender of post-operative transgender people.

By law, a child can be adopted by one individual (a woman or a man) or by a married couple, i.e. a heterosexual couple. Two unmarried individuals, even if they are a heterosexual couple, would not be able to adopt the same child. Insofar as they could not get married in Bulgaria, two persons of the same sex cannot simultaneously adopt one and the same child, as only one of them is eligible to adopt. The fact that the two persons *de facto* take care of the child and that the child perceives them as parents, as well as the emotional connection between the child and the adults, have no legal value. The person who has no custody of the child is a foreign person: he or she does not have any rights over the child, and the child has no rights over the adult, such as the right to inheritance. The same holds true when one of the two individuals in a same-sex family is the biological parent of a child: the other person cannot adopt his/her partner's biological child.

The artificial insemination (in vitro) procedure is available both to married couples and to single women.

The Protection against Domestic Violence Act regulates the rights of domestic violence victims, the measures to protect them (other than measures in criminal law) and the rules of imposing them. This

---

[8] E.g. the Protection against Domestic Violence Act (promulg. SG no. 27 of 29 March 2005).

[9] For example, Supreme Court of the People's Republic of Bulgaria (1969). Decision of the Plenum of the Supreme Court No. 5 of 24 November 1969 to supplement item 2 of Section III of Decision No 4/61 of the plenum on the circle of persons entitled to compensation for non-pecuniary damages for death.

law protects related individuals who are, or have been, in a family relationship or in a *factual marital cohabitation* (Article 2 § 1). In theory, this provision should also provide protection to same-sex couples in marital cohabitation, but in practice this is not the case, as the case-law does not recognise that same-sex couples are in a family relationship. As such, case-law accepts only heterosexual couples, since the law uses the term "matrimonial" and the word "spouses" is understood only as persons in a marriage, who, under Bulgarian law, may only be persons of different sex.[10]

In January, the Sofia City Administrative Court ruled on a complaint by a Bulgarian national married to another Bulgarian citizen in the UK under local law, disputing the refusal of the Municipality of Sofia's Lozenets area to record her marriage as current marital status in her personal civil status record. The reason for the municipality's refusal was the that the two persons were of the same sex. According to Bulgarian law, the municipal authorities are entrusted with storing information about a marriage concluded abroad and with attesting this fact to the public by issuing appropriate references or certificates to citizens and institutions. Thus, the consequences of not recording the marriage are that each of the two women is deprived in Bulgaria of the marital rights and obligations coming with their marriage. The Sofia City Administrative Court ruled that, pursuant to Article 6 § 3 and Article 76 § 1 of the Code of International Private Law, Bulgarian nationals abroad may enter into a marriage before the competent authority of the foreign country, if this is acceptable under its law, with the conditions for entering into marriage being determined for each of the persons by the law of the country of which the person is a national at the time the marriage was concluded. Therefore, the court held that the provisions of the Constitution and the Family Code which limit the marriage to a right of heterosexual couples only are compulsory: the same-sex of the applicant and the person she had married constitutes an obstacle to marriage under Bulgarian law. The prohibition contained in both rules cannot be ruled out in the examination of the negative substantive conditions of marriage in the proceedings instituted with regard to the request to update the family status in the applicant's private registration card. The case is currently pending before the Supreme Administrative Court.

In December, SCAC ruled on a complaint by one of the women in the same couple challenging the refusal of the Assisted Reproduction Centre to finance an in vitro procedure, as in the application form the woman applying stated she was married and indicated her wife's names. According to the legal framework in Bulgaria, a woman seeking funding for assisted reproduction has two possibilities: to request funding for assisted reproduction by an unknown donor or assisted reproduction by a partner or spouse. For the second option, the semen donor is the partner or spouse. The applicant in the case wanted to request assisted reproduction by an unknown donor, but the package of documents she was given contained a family status declaration. She filled in the declaration truthfully, stating that she was married to the other woman. Regardless of the candidate's choice, the Assisted Reproduction Centre decided to process her application as one for assisted reproduction with a partner or a spouse as donor and, taking into account that the applicant's partner was also female, refused to provide funding because this donor would not be able to provide semen. The Sofia City Administrative Court ignored completely the factual situation described above and ruled that the refusal of the centre was correct and lawful, since "two women cannot produce offspring in a natural way". The decision is subject to cassation review.

[10] Sofia District Court (2014). Order No 26 of 07.10.2014 in case No 53154/2014.

In May, the Sofia Administrative Court confirmed the Sofia City Court's refusal to return a child to the Kingdom of Denmark to his non-biological mother, to whom a Danish court has granted temporary custody. The Danish citizen G. and the Bulgarian citizen V. entered into a marriage in Denmark in 2014. In 2015 V. gave birth to a child and G. was recorded in the birth certificate as a joint mother under Danish legislation. In 2016, V. arrived in Bulgaria and filed with the Municipality of Pazardzhik a request to issue a birth certificate and register the child in the population register. In the application G. was declared as "father", as in the Bulgarian forms this is the only option. The municipality refused to issue a birth certificate because the documents provided in the file indicated origin that was not in compliance with Bulgarian law. When the refusal was contested, the Pazardzhik Administrative Court repealed it, holding that under Article 12 § 3 of Ordinance No RD-02-20 9/21.05.2012 on the functioning of the unified civil registration system, when the origin of the parent (mother or father) is not established, for the purposes of issuing a Bulgarian birth certificate, the relevant field for that parent's details is left blank and is stricken, i.e. it was not necessary to have G.'s name in the birth certificate in the first place.[11] Following a complaint by the Mayor of Pazardzhik, the Supreme Administrative Court sustained this decision and returned the file to the Municipality for the necessary actions to be carried out.[12] For these proceedings G. as a legal parent of the child, who is a Danish citizen, has not been notified. In early 2017, the marriage between G. and V. was dissolved. About a month later, G. was granted a schedule of contacts with the child, indicating the days on which she will exercise her parental rights. Several months later V. left Denmark with the child and arrived in Bulgaria without notifying G. and kept the child in Bulgaria against her will. G. notified the Danish authorities that she wished to end the joint exercise of custody and wishes to have custody granted to her alone. She was granted provisionally custody pending an agreement or a judgment of a court. She then submitted through the Bulgarian Ministry of Justice a request under Article 7 (f) in conjunction with Article 8 of the Hague Convention on the Civil Aspects of International Child Abduction for the return of the child to the country of his habitual residence, the Kingdom of Denmark. The Sofia City Court refused to return the child, since under Bulgarian law the parents are the mother and the father: "Our law DOES NOT recognise the statutes of joint maternity or paternity, i.e. parents of the child cannot be two mothers or two fathers. That is why the child's birth certificate [...] issued by the Municipality of Pazardzhik [...] lists the defendant V. as mother and the field 'father' is blank. For Bulgarian law, the child [...] has only one parent who is the bearer of the full set of parental rights and obligations (parental duties) in relation to that child."[13] In its May judgement, the Sofia Administrative Court sustained this refusal of the Sofia City Court, but with different motives. Unlike the Sofia City Court, the appellate court recognised G. as a joint mother of the child, found it was unlawful to keep the child and that all preconditions for the return of the child were present, but judged that the return of the child to Denmark will result in breaking his link with the "priority relevant adult who takes care of the child" and this would create preconditions for the deterioration of his mental health.[14]

---

[11] Pazardzhik Administrative Court (2016). Decision No 533 of 19 October 2016 on administrative case No 623/2016.
[12] SAC (2017). Decision No 6592 of 26 May 2017 on Administrative Case No 12897/2016, 3rd division.
[13] Sofia City Court (2017). Decision No 8693 of 21 December 2017 in civil case No 13176/2017.
[14] Sofia Administrative Court (2018). Judgment No 1114 of 4 May 2018 on case No 1038/2018, civil division, 14th panel.

In June, the Sofia City Administrative Court ruled on the refusal of the Migration Directorate to prolong the extended residence permit of an Australian citizen, wife of a French national.[15] The two women married in France in 2014. They moved to Bulgaria for a long stay in 2016. At the end of December 2016, the Migration Directorate at the Ministry of the Interior issued the Australian citizen a long-term residence permit, in her capacity of a family member of a European Union citizen. The authorisation even referred to Directive 2004/38/EC as legal basis. The authorisation was granted for a period of one year. In January 2018, the Director of the Migration Directorate refused to grant a new long-term residence permit to a family member of an EU citizen in the Republic of Bulgaria on the grounds that according to the legislation of the Republic of Bulgaria only the marriage concluded between a man and a woman was legal. Apart from the Family Code and the Civil Registration Act, the refusal decision refers also to the definition of 'marriage' in the Constitution of the Republic of Bulgaria as legal basis. SCAC repealed the refusal. The court motivated its decision with the CJEU ruling on the *Coman case.*[16] SCAC held that in cases where an EU citizen has made use of his freedom of movement and has went to an EU Member State other than that of which he is a national and is actually residing there, in accordance with Article 7. 1 of Directive 2004/38/EC, and during that time has established and strengthened family life with a third-country national of the same sex whom they married in the host Member State legally, Article 21 § 1 TFEU should be interpreted so as not to allow the competent authorities of the Member State to deny right of residence within the territory of that Member State for reasons that the law of that third country does not provide for same-sex marriages. In addition, SCAC complements that the refusal of the Migration Directorate to recognise marriage between Union citizens of the same sex is a violation of Article 21 § 1 TFEU and consequently restricts the right of the Australian citizen to move and reside freely within the territory of the EU. The Migration Directorate appealed against this decision and it was pending cassation review which wasn't concluded within the reporting period.

Recognition of legal gender

Transgender and intersex people need a statutory civil gender (i.e. gender indicated in official documents) change procedure. The Bulgarian legislation recognises the person's right to change its civil gender (Bulgarian Identity Documents Act, Article 9 § 1; Regulation on issuing Bulgarian identity documents, Article 20 § 6 and Article 22 § 6 (5); and § 1 (17) of the Additional Provisions to the Protection against Discrimination Act). However, the absence of an established procedure creates serious obstacles for these persons to make such a change. There is an explicit statutory prohibition to change civil gender by administrative procedure (Civil Registration Act, Article 76 § 4). The change can take place at the request of the person to the area court, with the judicial panel creating an *ad hoc* procedure. The documents required by the court, as well as the scope of the decision, if it is in favour of the person seeking to change their civil status, are judged by each chamber separately. For this reason, there is contradictory case-law harmful to the citizens.[17] For the same reason, there is also

---

[15] SCAC (2018). Decision No 4337 of 26 June 2018 on administrative law case No 3500/2018, 15th panel.

[16] *CJEU (2018). Case C-673/16 Relu Adrian Coman and Others v Inspectoratul General pentru Imigrări and Ministerul Afacerilor Interne* of 5 June 2018.

[17] Bilitis Resource Centre Foundation (2012). Changing the sex of transgender and intersex people in Bulgaria: Examination of the legal framework and case-law and a strategy to improve them, available at: http://bghelsinki.org/pl/external/bilitis/2012-Gender-Reassignment-in-Bulgaria-BG.pdf; and Dobreva, N. (2014). Gender

controversial case-law concerning the requirement to change physical gender before the civil gender.[18] This leads to frequent refusals on the part of the court to allow such a change, which is contrary to the privacy of the affected, usually transgender and intersex people.

In its recent case-law, the Supreme Cassation Court has two decisions concerning gender recognition of transgender persons. In the first case, the court decided that transgender people *cannot be required to have a surgery* for the modification of their body against their will as a prerequisite for changing the gender recorded in the birth certificate, since the admissibility of such intervention, without a court ruling on gender reassignment, is questionable in light of the provision in Article 128 of the Criminal Code.[19] At the same time, however, SCC held that persons requesting the court to change their civil gender should prove before the court their serious and irreversible decision on the future alignment of their physical gender with the mental one, *and that the gender reassignment hormone therapy should have at least started*. The latter is not in line with the World Professional Association for Transgender Health (WPATH) standards, which shows that medical and other barriers to the recognition of the gender of transgender persons can damage their physical or mental health.[20] In the second case, SCC confirmed its earlier decision, stating that for the purpose of allowing a change of gender in the birth certificate of a person, it is sufficient, firstly, that the condition of transgenderism, established by means of a comprehensive medical examination (medical criterion), be present, and, secondly, that it be proven to the court that the person had made a serious and irreversible decision to change his or her mental and social gender role.[21]

This contradicts ECtHR case-law in relation to complaints by transgender people who have been refused gender recognition but have not yet undergone gender reassignment surgery, or who do not wish to undergo procedures that would cause them sterility.[22] Bulgarian legislation should be brought in line with international medical and legal standards by the introduction of a clear and streamlined procedure for the change of civil gender in the identity documents of persons with established transgender or intersex conditions, based on the one-stop shop principle. This procedure must not include a requirement to have the physical gender of the requestor surgically reassigned or to undergo any other procedure that would cause sterility. Given the economic inequality of the affected groups caused by the heavy financial burden of changing physical gender by surgical and hormonal interventions, as well as the difficulties faced by these people in accessing the labour market as a whole, this administrative procedure should be free of charge or there should at least be a financial relief. The legal framework should explicitly prescribe that newly issued documents of a person must not indicate in any way the change of civil gender, insofar as such information would

change in civil law — case-law and trends in 2014, available at: http://bghelsinki.org/pl/external/bilitis/2014-Case-law-on-gender-reassignment-in-Bulgaria-BG.pdf.

[18] Cf. Varna District Court (2007). Decision No 1835 of 11 June 2007 on civil case No 1953/2007 and Varna District Court (2010). Decision No 1126 of 6 April 2010 on civil case No 10044/2009.

[19] SCC (2017). Decision No 205 of 5 January 2017 on case No 2180/2016, 3rd civil division.

[20] WPATH (2017). WPATH Identity Recognition Statement. Available at: https://s3.amazonaws.com/amo_hub_content/Association140/files/wpath-identity-recognition-statement-11_15_17.pdf.

[21] SCC (2017). Decision No 16/30.05.2017 on case No 2316/2016, civil college, IV div.

[22] ECtHR (2015). *Y.Y. v. Turkey* (no.14793/08), 10 March 2015; ECtHR (2017). *A.P., Garçon and Nicot v. France* (Applications nos. 79885/12, 52471/13 and 52596/13), 6 April 2017; ECtHR (2018). *S.V. v. Italy* (no. 55216/08); ECtHR (2019). *X v. the former Yugoslav Republic of Macedonia* (Application no. 29683/16), 17 January 2019.

reveal the changes to third parties, exposing the person to risk of discrimination and disproportionate interference in their personal life.

On the other hand, there is a lack of medical standards on surgical gender reassignment, and the existing medical standards do not integrate the issues concerning the intersex people. This includes guarantees that *no* early genital cosmetic surgery will be performed, regardless of the consent of a parent or guardian.

The legal definition of gender is missing from Bulgarian legislation. It should, therefore, be theoretically possible to indicate in civil status documents a third option other than male or female. The practical implementation of such a change is likely to be difficult due to the lack of such a possibility in the software of the civil status authorities. However, the change is necessary for people who do not feel involved in the man-woman gender binary. The only legal barrier to such a modification is the Constitutional Court's decision on the *ex ante* constitutionality review of the Istanbul Convention adopted during the year.

The decision of the Constitutional Court on the conformity of the Istanbul Convention with the Bulgarian Constitution is a serious retreat from the protection of human rights in Bulgaria. The Convention was to be ratified by Bulgaria in 2018. The Constitutional Court decision has potential consequences, in particular with a negative impact on persons in need of change of the civil gender indicated in their identity and civil status documents. The judgment came after a six-month campaign of the conservative reaction against the movement for equal rights of women and the movement for equal rights of LGBTI people, which opposed the ratification of the international treaty.[23] As part of this campaign, LGBTI people were severely stigmatised, with the word “gender”, even if foreign to Bulgarian society, becoming an insult designating these communities. In April, the European Parliamentary Forum on Population and Development (EPF), a regional association of parliamentarians from different European countries, published a report entitled “Restoring the Natural Order”: The religious extremists’ vision to mobilize European societies against human rights on sexuality and reproduction”.[24] The report analyses information leaked to a French television channel about a secret coordination network of conservative civil society organisations from Europe and the USA, who have been working on “achievable goals” since 2013, aimed at dismantling the progress achieved in the field of sexual and reproductive rights. EPF disclosed documents showing some of the network's objectives, including the elimination of the right to divorce, women’s access to contraception, assisted reproduction or abortion, and the criminalisation of homosexuality.[25] The implementation of the Istanbul Convention is included among the network's targets, and the table of network activities also lists the campaign in Bulgaria. According to the table, the campaign was in fact launched in 2016 and was successfully completed in 2018.[26] EPF concludes that the main driver

---

[23] See Chapter 14, **Women’s rights.**

[24] EPF (2018). “Restoring the Natural Order”: The religious extremists’ vision to mobilize European societies against human rights on sexuality and reproduction”, 19 April 2018, available at: https://www.epfweb.org/node/690.

[25] Ibid., pp. 12 and 35.

[26] Ibid., p. 33.

behind the conservative network, which they call *Agenda Europe,* is the Vatican, or more precisely, organisations directly or indirectly linked to the Catholic Church.[27]

In July, by a majority of eight to four, the Constitutional Court ruled that the Istanbul Convention did not comply with the Constitution of the Republic of Bulgaria.[28] The Court ruled that the concept of gender is a part of 'gender ideology', which teaches that gender is not biologically predetermined and can be chosen by the person. Social gender cannot be independent of the biological one, and therefore the Convention is not simply incompatible with the Constitution, but also the establishment of procedures ensuring the legal recognition of gender other than the biological one would be contrary to the fundamental law. The latter in practice blocks the way to the introduction of a legal framework civil gender change. In addition, within the reporting period, at least one transgender person was refused civil gender change by an explicit reference to the Constitutional Court decision.[29] It remains to be seen whether this extremely negative development will be confirmed by case-law.

[27] EPF (2018), p. 20.
[28] CC (2018). Decision No 13 of 27 July 2018 on constitutional case No 3/2018. available at: http://constcourt.bg/bg/Acts/GetHtmlContent/f278a156-9d25-412d-a064-6ffd6f997310.
[29] SCC (2018). Decision No 5234 of 1 August 2018 on civil case No 3308/2017, 2nd matrimonial appellate panel.