

Criminalization of LGBTQ people in Uzbekistan & the EBRD

Key concerns:

- **Criminalization of same-sex sexual conduct and its ongoing use:** Article 120 of the Criminal Code of the Republic of Uzbekistan states that voluntary sexual intercourse between men is an offense punishable with imprisonment for up to three years. According to the National Centre for Human Rights of Uzbekistan (NCHR) and the Ombudsperson for Human Rights of the Oliy Majlis (Legislative Chamber of Parliament), from January and February 2022 **36 persons were convicted under Article 120 only in 2021, 25 of them to terms of imprisonment.** This indicates an increase compared with 2016-2020.¹
 - Uzbekistan actively applies **forced anal examinations** against gay and bisexual men and trans women to provide ‘evidence’ of same-sex intercourse.² This evidence is grounds for courts to impose prison sanctions on individuals. Forced anal examination is denounced by the World Health Organization as a form of torture.
 - Uzbekistan is one of only two countries in the Eastern Europe and Central Asia region that continues criminalization of consensual same-sex conduct between men. Continued criminalization generates a hostile environment in which LGBTQ people in Uzbekistan are **routinely subjected to arbitrary arrests, persecution and violence** both by the state and by their fellow citizens.
 - The current legal situation also prevents LGBTQ people from realizing their rights to freedom of association.
- **The impact of criminalization on health outcomes in HIV prevention and treatment programs:** State-run HIV centers in Uzbekistan report gay and bisexual men and trans women who are living with HIV to the police. Civil society organizations documented cases of medical doctors at the National AIDS Center deceiving gay men to come out by telling them that ARV was different for heterosexual and same-sex HIV transmission. These human rights abuses put HIV programs under threat by driving vulnerable communities of gay, bisexual men and transgender women further underground.
 - In 2022, the Ministry of Interior of Uzbekistan introduced a draft law that would allow for forced HIV and STI testing of men who have sex with men and other key populations during police raids.³
- **The impact of criminalization of voluntary same-sex sexual conduct on business and investments:** “One of Uzbekistan’s main economic priorities is to privatize its largely state-owned economy by attracting foreign investors and businesses...Uzbekistan still attracts one of

¹ Report *Like living on a different planet: Gays, bisexual men and trans people vulnerable to abuse, imprisonment and discrimination in Uzbekistan*. International Partnership for Human Rights, ECOM and AHRCA (June 2022) <https://www.iphronline.org/uzb-gbt-2022.html>

² Uzbekistan: Forced Anal Testing in Homosexuality Prosecutions. Human Rights Watch (August 2021) <https://www.hrw.org/news/2021/08/05/uzbekistan-forced-anal-testing-homosexuality-prosecutions>

³ Uzbekistan’s Proposed Medical Testing Law Violates Basic Rights

<https://www.hrw.org/news/2022/09/07/uzbekistans-proposed-medical-testing-law-violates-basic-rights>

the lowest amounts of FDI as a proportion of its GDP compared with its neighbors and other former Soviet nations. Encouragingly, evidence shows that improving LGBT+ inclusion could help Uzbekistan close this gap and attract more investment. **Globally, countries that do not criminalize consensual same-sex relations attract 4.5 times more foreign investment on average than countries that do criminalize this community.** Using data from UNCTAD, we find that, on average, the 133 countries that do not criminalize same-sex relationships have significantly higher levels of inward FDI than the 70 countries that continue to criminalize.”⁴

Why should International Financial Institutions (IFIs) like the EBRD be concerned?

- The European Bank for Reconstruction and Development (EBRD) has \$2.4 billion in 69 active projects in Uzbekistan.⁵ The IFIs represent major actors in Uzbekistan's development policy.
- The EBRD's mission of supporting “socially sound and sustainable development” is directly linked to overcoming exclusion and discrimination, including on the basis of sexual orientation and gender identity.⁶
- The IFIs are part of the United Nations system, though independently governed. They are guided by international human rights law which clearly denounces criminalization of same-sex sexual conduct.
- Because of the economic implications described above, criminalization of same-sex sexual conduct is not only a question of human rights but also of economic development.

What can the EBRD do?

- Institute specific protections for LGBTIQ+ communities to prevent and respond to discrimination, sexual exploitation, abuse, and harassment related to EBRD projects and programs. This should extend to all operations, including indirect lending.
- Raise concerns about the impact of criminalization on investments, business and tourism with the government of Uzbekistan.
- Conduct a comprehensive assessment of how current lending impacts LGBTIQ+ communities in Uzbekistan.
- Require and take responsibility for assessing impacts relating to sexual orientation and gender identity in future lending to Uzbekistan, including through continuous monitoring and evaluation.
- Commit to building institutional knowledge and staff understanding of the challenges facing the LGBTIQ+ communities in Uzbekistan and their implications for development.

Prepared by Julie Radomski julieradomski@gmail.com for a civil society coalition working on LGBTQ rights in Uzbekistan.

⁴ Research Series: The Economic Case for LGBT+ Inclusion in Uzbekistan p.16 (2021) Open for Business. <https://open-for-business.org/s/The-Economic-Case-For-LGBT-Inclusion-in-Uzbekistan-November-2021-report.pdf>

⁵ EBRD website: “Uzbekistan data.” <https://www.ebrd.com/where-we-are/uzbekistan/data.html>

⁶ EBRD website: “Who we are.” <https://www.ebrd.com/who-we-are.html>