Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's Refworld website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the Knowledge and Information Management Unit.

CHL104908.E

Chile: Situation of sexual minorities, including legislation; treatment by society and authorities; state protection and services available (2010-July 2014)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Overview

The US Department of State's Country Reports on Human Rights Practices for 2013 states that discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons was one of the "principal human rights problems" in Chile (US 10 Apr. 2014, 1). The BBC and GlobalGayz, a "gay-owned" website that provides information about LGBT issues in different countries (GlobalGayz n.d.a), both report on discrimination that LGBT persons face in Chile (BBC 10 May 2012; GlobalGayz n.d.b).

A report published by the Movement for Homosexual Integration and Liberation [1] (Movimiento de Integración y Liberación Homosexual, MOVILH), a non-profit organization that defends the rights of LGBT persons in Chile (MOVILH n.d.a), states that 143 cases of discrimination due to sexual orientation and gender identity were reported in 2013, including 4 killings, 13 acts of verbal or physical aggression, 6 incidents of police abuse, 10 incidents of employment discrimination and 17 acts of discrimination by family, friends or neighbours (ibid. Feb. 2014, 13). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2. State Protection

2.1 Legislation

According to the website of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), male-to-male and female-to-female relationships are "legal" in Chile (ILGA n.d.). Sources indicate that in 1998, homosexuality was decriminalized in Chile (Revolver Santiago Magazine 17 Aug. 2009) or legalized (GlobalGayz n.d.b).

Sources report that Congress passed an anti-discrimination law in May 2012 (Freedom House 2013; AP 12 July 2012). According to sources, the Law had been stuck in the legislature for seven years (ibid.; BBC 10 May 2012; Freedom House 2013) and was approved after the "brutal beating" and death of a gay man in Santiago in March 2012 (ibid.). Other sources also report that the anti-discrimination legislation was passed in 2012 after the killing of a gay youth (AP 28 Oct. 2013; The Santiago Times 29 Jan. 2014; AI 2013). He was reportedly beaten to death for being homosexual (ibid.; US 10 Apr. 2014, 22; The Santiago Times 18 Oct. 2013). Sources report that swastika symbols were carved into his body (ibid. 9 July 2013; BBC 10 May 2012; AP 28 Oct. 2013). The four attackers were found guilty of murder (ibid.; The Santiago Times 18 Oct. 2013). Sources report that one of the attackers was sentenced to life in prison, one to 7 years [8 years (US 10 Apr. 2014, 22)] and the other two to 15 years of imprisonment (AP 28 Oct. 2013; US 10 Apr. 2014, 22).
Sources report that the anti-discrimination law came into force in July 2012 (AI 2013; AP 12 July 2012). According to sources, it allows people to file anti-discrimination lawsuits and includes "hate-crime sentences for violent crimes" (ibid.; Freedom House 2013). Sources indicate that the Law prohibits discrimination on grounds of race, ethnicity, religion, sexual orientation, appearance, disability (AI 2013; BBC 10 May 2012) and gender (ibid.) or gender identity and age (AI 2013). Article 2 of the anti-discrimination law 20609 of 2012 states that the Law prohibits discrimination based on race or ethnicity, nationality, socioeconomic status, language, ideology or political opinion, religion or belief, gender, sexual orientation, gender identity, marital status, age, among others (Chile 2012, Art. 2). The Law also modified Article 12 of the Penal Code (ibid., Art. 17) to include crimes based on the sexual orientation or gender identity of the victim, among others, thus expanding the definition of aggravated circumstances (ibid. 1874, Art. 12.21a).

According to Country Reports 2013, "[l]aws prevent transgender persons from changing gender markers on government-issued identity documents, including national identity cards and university diplomas" (US 10 Apr. 2014, 22). Human Rights Watch reports that a bill that would have allowed individuals to "change their name and legal gender on birth certificates and identity cards so that official documents match their gender identity" was "tabled" in May 2013 (Human Rights Watch Jan. 2014).

Further information on the bill and the implementation of the anti-discrimination law could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.2 Police and Judiciary

A report presented in 2012 to the Committee on the Elimination of Discrimination Against Women (CEDAW) by a representative of the Organization of Transsexuals for the Dignity of Diversity [2] (Organización de Transexuales por la Dignidad de la Diversidad, OTD), a Chilean organization that aims to raise awareness in the community about transsexual persons (INDH 29 Dec. 2010), and a 2013 report of OTD written in collaboration with the International Gay and Lesbian Human Rights Commission (IGLHRC), both indicate that LGBT persons in Chile face violence from police (OTD 1 Oct. 2012; OTD and IGLHRC July 2013, 3) and prison guards (ibid.). Article 373 of the Chilean Penal Code punishes behavior that offends "morality" and "decency" [or "good customs" (OTD and IGLHRC July 2013, 3)] (OTD 1 Oct. 2012). Article 373 of the Penal Code states that

[translation]

those that in any form offend the modesty or good customs with acts of grave scandal or of significance, not expressly covered in other articles of this Code, will suffer the penalty of imprisonment to the minimum or medium degree (Chile 1874, Art. 373)

According to the OTD and IGLHRC report, the Article has been used to justify the detention of LGBT individuals and "to criminalize and harass [their] lawful behaviour" (OTD and IGLHRC July 2013, 3). Without providing details, the OTD report similarly states that the Article was used to detain transgendered women, who were "sexually abuse[d], mistreat[ed], [and] humiliate[d]" by police while in detention and then "released without charges or any judicial process" (OTD 1 Oct. 2012).

The OTD and IGLHRC report provides an example of a transgender woman who was detained for "unknown" reasons and sexually abused by the police in June 2012 in the city of Antofagasta (OTD and IGLHRC July 2013, 4). According to the same report, when she went to a hospital, a doctor on duty refused to help her (ibid.). When she attempted to make a report to the Investigative Police (Policía de Investigaciones de Chile, PDI), "they threatened and intimidated her in an attempt to prevent her from registering her complaint" (ibid.). Later on, she was able to register her complaint with the PDI with the help of OTD and the National Human Rights Institute (Instituto Nacional de Derechos Humanos, INDH) (ibid.). Corroborating information, as well as further information on the results of the investigation, could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources report on incidents involving LGBT people and the response of the authorities, including the following:

- On 5 February 2013, a transgender female was attacked by unknown assailants in Valparaiso (US 10 Apr. 2014, 22). According to the OTD, Chilean police initiated an investigation, but "did little to pursue the case" (ibid.).
- Country Reports 2013 indicates that on 23 June 2013, a gay man was attacked because of his sexual orientation, and suffered serious injuries (US 10 Apr. 2014, 22). Media sources add that he was attacked by a group of six men for being gay, and lost a leg as a result of the attack (The Santiago Times 9 July 2013; The Seattle Lesbian 11 Apr. 2014). According to Country Reports 2013, authorities "appeared reluctant to investigate and prosecute" the incident (US 10...

- Sources report that a homosexual man was attacked in October 2013 (US 10 Apr. 2014, 22; *The Santiago Times* 7 Apr. 2014; *El País* Apr. 2014) in San Francisco de Mostazal (ibid.; *The Santiago Times* 7 Apr. 2014). According to sources, the attack left him in a coma, and he died a few months later from his injuries (ibid.; *El País* 7 Apr. 2014). According to *Country Reports 2013*, authorities "appeared reluctant to investigate and prosecute" the case (US 10 Apr. 2014, 22). Media sources report that there were between 4 (*El País* 7 Apr. 2014) and 6 possible assailants (The Seattle Lesbian 11 Apr. 2014; *The Santiago Times* 7 Apr. 2014) who denied homophobic intent (ibid.; *El País* 7 Apr. 2014). The judge in the case ruled "that it wasn't a hate crime and that it was normal for people to insult each other about their sexual orientation during a fight" (ibid.). He placed the suspect under house arrest (ibid.; *The Santiago Times* 7 Apr. 2014). After the victim’s death, the "public prosecutor's office announced plans to upgrade charges" against the suspect (ibid.).

- On 26 December 2013, a man was verbally assaulted and fatally shot in Santiago because of his sexual orientation, according to witnesses (US 10 Apr. 2014, 22). The Seattle Lesbian, a daily online news magazine reporting on LGBT issues (The Seattle Lesbian n.d.), similarly stated that the man was shot by a "drug dealer," due to his sexual orientation (ibid. 11 Apr. 2014). According to *Country Reports 2013*, authorities issued an arrest warrant for the assailant, but as of December 2013, no arrest had been made (US 10 Apr. 2014, 22).

Further information on these incidents and on state protection of sexual minorities could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

### 3. Support Services

Sources list the following organizations that provide services to LGBT persons:

- Without providing details, the website of the foundation TODO MEJORA, a Chilean organization created in 2011, indicates that the organization aims to prevent suicide of LGBT adolescents and homophobic bullying of children and adolescents in Chile (TODO MEJORA n.d.).
- MOVILH, a Santiago-based organization, provides legal, psychological and social services to LGBT persons (MOVILH n.d.b). MOVILH also organizes cultural educational events, such as the March for Equality and Sexual diversity, the Gay Parade and a film festival, among others (ibid.).
- OTD has four offices in four regions in Chile that aim to "empower" transsexual persons (INDH 29 Dec. 2010).

Further information on support services could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

### Notes

[1] The organization translated its name to Homosexual Movement of Integration and Liberation (MOVILH n.d.a), but the English sources referenced in this Response use other variations. Movement for Homosexual Integration and Liberation is the most common.

[2] Other translations were found in the sources consulted by the Research Directorate: the Organization for Transgender Dignity and Diversity and the Organization for Dignity and Diversity of Transexuals.

### References


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**Notes:**
- The Ley núm. 20609 is the Chilean law that establishes measures against discrimination.
- The article from The Santiago Times, 7 April 2014, mentions a 21-year-old gay man who died from injuries six months after a savage attack.
- Organización de Transexuales por la Dignidad de la Diversidad (OTD) and International Gay and Lesbian Human Rights Commission (IGLHRC) presented information to the United Nations for consideration in July 2013.
- The article from The Santiago Times, 29 January 2014, mentions a 21-year-old gay man who died from injuries six months after a savage attack.
- The Santiago Times, 9 July 2013, reports on a gay Chilean teenager who will lose a leg after a brutal attack.
Additional Sources Consulted

**Oral sources:** Attempts to contact the following individuals and organizations were unsuccessful within the time constraints of this Response: ACCIONGAY; Chile – Ombudsman; Fundación Iguales; Instituto Nacional de la Juventud; International Gay and Lesbian Human Rights Commission; Movimiento de Integración y Liberación Homosexual; Movimiento por la Diversidad Sexual.

**Internet sites, including:** ACCIONGAY; Agence France-Presse; Aidsmap.com; Avert.org; Chile – Biblioteca del Congreso Nacional de Chile, Carabineros de Chile, Ministerio de Defensa Nacional, Ministerio de Justicia, Ombudsman, Policía de Investigaciones de Chile; Comisión Interamericana de Derechos Humanos; ecoinet; El Mostrador; Elparadiario14.cl; Factiva; Fundación Iguales; Gay Star News; Huffington Post Gay Voices; Iguales.cl; Instituto Nacional de Derechos Humanos; Instituto Nacional de la Juventud; International Federation for Human Rights; International Gay and Lesbian Human Rights Commission; Jurist.org; Minority Rights Group International; Movimiento por la Diversidad Sexual; Noticias Terra; Pink News; Political Database of the Americas; Purpleunions.com; Trans Respect Versus Transphobia Worldwide; United Nations – Office of the High Commissioner for Human Rights, Refworld, UNAids; Washington Blade.

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