

Project “Prevention and Empowerment in the NIS”

ILGA-Europe Activity Report January - December, 2009

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Programme objective:

- to advocate for inclusive HIV/AIDS and other STIs prevention and sexual and reproductive health policies in the programme region

Programme results (numbered according to the project plan):

R1: LGBT organizations have the knowledge and skills to advocate and lobby on sexual and reproductive rights and HIV/AIDS in relation to sexual minorities.

R2: An overview of relevant existing policies on sexual and reproductive rights and HIV / aids is compiled.

R3: Guidelines on using existing international policies on HIV/AIDS, sexual and reproductive rights and sexual minorities in the local context are developed.

R4: Country based strategic advocacy and lobby plan in the field of sexual and reproductive rights and HIV / aids in relation to sexual minorities is developed.

R5: International and national relevant institutions are more sensitive towards including sexual minorities into their SRHR and HIV/AIDS strategies

Activities towards results in year 3:

R1: LGBT organizations have the knowledge and skills to advocate and lobby on sexual and reproductive rights and HIV/AIDS in relation to sexual minorities.

1. Study Visit to EU Institutions

From 28th to 30th September 2009, ILGA-Europe hosted a study visit to EU institutions for 11 activists from national partner organisations from the EU neighbourhood countries (Armenia, Azerbaijan, Moldova, Georgia and Ukraine). The visit involved a practical preparation training (1 day) and lobbying-meetings with officials from EU Institutions (2 days).

The event had three overall objectives:

- To gain good understanding of how the different institutions of the European Union work to protect human rights
- To understand how to access European Union institutions
- To raise awareness of and gain support for current concerns

1.1. Preparation

On the first day, Viorel Ursu (Open Society Institute) introduced participants to how the European Parliament, European Commission and European Council interact and the various mechanisms e.g. human rights dialogues and agreements e.g. ENP action plans which LGBT activists can use to lobby their issues. Dr. Cailin C E Mackenzie (MIMAT) then gave a practical communication skills training on how to deliver a message in 2 minutes targeted at a generalist audience with little time. Each participant had been asked to come to the study visit with a short general description of the situation of LGBT in their country plus a description of three issues which they intended to raise with policymakers. These were used as key speaking texts during the training. These preparations proved extremely useful for the type of meetings held on the second and third days.

1.2. Meetings

During the second and third days, meetings took place with members of the European Parliament (Parliamentary Cooperation Committees, LGBT-Intergroup), the European Commission (DG RELEX Country Desk Officers, DG EMPL Anti-Discrimination Unit, DG AIDCO European Instrument for Democracy and Human Rights) and the Council of the EU (Working Group on Eastern Europe and Central Asia, the Personal Representative of the SG/HR for Human Rights - Riina Kionka, the LGBT focal point in the Council.)

Of particular relevance to the activists were human rights dialogues for each country and mechanisms to keep the local Commission delegation in each respective country informed of pertinent issues. Riina Kionka specifically consulted activists on argumentation, which can effectively respond to objections aiming at limiting the human rights of LGBT persons, based on traditional values. Each activist had the opportunity to present their issues on at least three occasions to EU policy makers. During all three days, an Russian/ English interpreter accompanied the group, the majority of whom had limited English. Issues raised included freedom of assembly and the anti discrimination law (Moldova); freedom of assembly, freedom of expression, and hate crimes (Ukraine); police blackmailing and humiliating treatment of LGBT people (Azerbaijan); hate speech by public figures and the lack of action by the state to combat a social climate of intolerance and homophobia (Georgia).

2. Supporting partners in upholding Freedom of Assembly in Ukraine and Moldova

During the reporting period, LiGA (Nikolaev) and GenderDoc-M (Chsinau) once again suffered from serious interference in the enjoyment of their right to freedom of assembly.

Ironically the Ukrainian Government just before **LiGA's Rainbow festival** was due to take place, aligned itself with the EU Presidency Declaration on the International Day against Homophobia on 17 May The declaration expressed concern about *'violations of human rights and fundamental freedoms based on sexual orientation or gender identity wherever they occur, in particular the use of death penalty on this ground, the practice of torture or other cruel, inhuman and degrading treatment or punishment, arbitrary arrest*

or detention, *denying the right to peaceful assembly* and deprivation of economic, social and cultural rights, including the right to health.’

Following the ban on public activities during their Rainbow Festival in May which was imposed by the City Administration and upheld by the City Administrative Court on 12 May, LiGA’s chairperson, Oleg Alyokhin was summoned to the City Prosecutor’s office in an irregular manner for an exploratory meeting on 27th June. This meeting was to determine whether a criminal case should be opened against LiGA on the grounds that they acted in defiance of the original ban and therefore liable to closure by the authorities. During this meeting Mr Alyokhin was asked several inappropriate and irrelevant questions including about his sexual orientation and salary.

The Prosecutor subsequently decided not to open a criminal case against LiGA but has also refused to open a criminal case with regard to recovery of photographs stolen from their exhibition by individuals protesting against the Rainbow Festival. LiGA are now awaiting the appeal hearing against the initial ban in a second instance court in addition to their appeal in respect of the 2008 ban on a flashmob event.

The original ban issued by the Mykolayiv City Administrative Court violates the fundamental human rights of freedom of expression and assembly guaranteed by the European Convention on Human Rights. Furthermore it is contrary to the obligations contained in the EU-Ukraine Action Plan.

In order to support LiGA, ILGA-Europe contacted the the Personal Representative of the SG/HR for Human Rights, the European Parliament LGBT Intergroup, the Ukraine country desk officer in the European Commission in addition to the Ukrainian Ombudswoman, and the Ukrainian Ministry of Justice. While the European Union actors promised to raise the case, the Ukrainian authorities did not to our knowledge react in any way. We cooperated closely with the Council of Europe Commissioner for Human Rights’ office, COC-Netherlands and IGLHRC throughout the period to draw the attention of regional and international institutions to the case and will continue to do so.

In **Moldova**, ILGA-Europe during March and April held discussions with GenderDoc-M staff about how to put pressure on Moldovan authorities to authorize and properly police a demonstration in favour of the anti discrimination law during the Moldovan Pride 7-9 May.

However, by the beginning May, it had become clear to GenderDoc-M and ILGA-Europe that the unstable political situation and police violence towards post election demonstrators made such a demonstration inadvisable. It would have been impossible to guarantee the safety of participants. In addition the absence of Government meant that there would be no political audience for the demonstration.

ILGA-Europe assisted GDM in identifying an advisor from the OSCE expert group on Freedom of Assembly to attend a round table discussion during Pride on freedom of assembly on 8 May which replaced the demonstration. ILGA-Europe staff also attended the other Pride events.

3. Report on Situation of LGBT people in Kazakhstan

ILGA-Europe at the request of project partner Amulet, made a significant contribution to an upcoming publication authored by OSI on the situation of LGBT people in Kazakhstan by reviewing the publication and providing recommendations to the Kazakh Government,

European Union and OSCE. The report will be released in 2010 and will be a good lobbying tool for civil society working in this area.

R3: Guidelines on using existing international policies on HIV/AIDS, sexual and reproductive rights and sexual minorities in the local context are developed

4. Make it work: 6 steps to effective LGBT human rights advocacy

During 2009 the consultant hired to write the manual, conducted interviews with some members of the steering group and also contacted other member organisations of ILGA-Europe such as Legebitra (Slovenia) and Mozaika (Latvia) to collect examples of good practice to illustrate elements of the advocacy process. Interviews were also held with other staff and consultants working with IE such as Nigel Warner (models for position papers) and Juris Lavrikovs (effective communication in the advocacy process).

Beth Fernandez was in touch with the consultant throughout guiding the process and giving extensive feedback on one partial draft and the complete draft submitted at the end of April. Comments were implemented and then sent out to the steering group (4 representatives of project partners with significant experience in advocacy and lobbying) for comment during June. All feedback (relating to content only) was received by mid July and the consultant delivered the final manual at the end of July.

Beth Fernandez also worked with ILGA-Europe publications staff to devise the name 'make it work: 6 steps to effective LGBT human rights advocacy

An external proofreader then worked on the document during September and on her recommendation we decided engage an external editor to do a final check of the manual during January and February 2010. It is now foreseen that the manual will be printed and available at the end of April 2010.

R 4: Country based strategic advocacy and lobby plan in the field of sexual and reproductive rights and HIV/ aids in relation to sexual minorities is developed

To enable advocacy work by national PRECIS partners, ILGA-Europe organised two tailor-made trainings on planning advocacy for Gender and Development (2-4 June) and We for Civil Equality (18-20 December).

5. Advocacy Planning Session for Gender and Development, Mehriban and Za Ravnje Prava

ILGA-Europe organised a two and a half day advocacy planning session in Baku, Azerbaijan, from 2 to 4 June 2009 with our Azeri partner, *Gender and Development*. The session was attended by 7 staff members and volunteers of *Gender and Development* and its women's initiative group *Mehriban*, plus 2 staff members from *Za Ravnje Prava* (For Equal Rights) from Kherson in Southern Ukraine.

The aim of such sessions is to build the capacity of our partner organizations to advocate effectively and strategically on LGBT issues on a national and international level so that they maximize the potential of their staff and existing resources.

The session provides the participants with a framework and tools to produce a basic advocacy plan with two or three advocacy objectives which they can use to structure the advocacy work of their organisation. During this session, participants selected the passing of national legislation protecting the rights of LGBT people and the promotion of tolerant attitudes in state structures and society at large as their two advocacy objectives.

The session covered the concepts of advocacy and advocacy planning, identification and prioritisation of problems to be solved by advocacy, analysis of those problems, formulation of advocacy objectives and specific objectives, identification of key audiences, allies and opponents and selection of suitable tactics to use in each case. Time was also allowed for discussion of activities, resources and realistic timeframe. Participants discussed the importance of coalition building in order to build broad based support for a comprehensive anti discrimination law and to produce a draft to propose to the Parliament.

During the visit, ILGA-Europe also organised meetings with Veronika Kotek the Special representative of the Council of Europe Secretary General in Azerbaijan, the European Commission Delegation, the Consul and first political officer of the UK Embassy and ABA CEELI.

6. Advocacy Planning Session for We for Civil Equality

From 18th to 20th December in Arzakhan (Armenia) ILGA-Europe conducted an advocacy planning session with 10 staff, board members and volunteers of Armenian LGBTQ organisation We for Civil Equality.

The planning session guided participants through defining advocacy for their organization, prioritizing problems suitable for addressing with advocacy methods, formulating advocacy objectives, identifying key audiences, and defining activities. A final session was devoted to principles of effective communication where participants were divided into 4 groups and each had to prepare a speech to fit one of four different advocacy scenarios.

WFCE produced an advocacy plan with two main advocacy objectives for the coming years – to improve tolerance towards LGBTQ people in Armenian society and to increase legal protection of LGBT people. The first was envisaged a short to medium goal and the anti discrimination legislation as a more long term goal building on the former.

R5: International and national relevant institutions are more sensitive towards including sexual minorities into their SRHR and HIV/AIDS strategies

7. European Union

7.1. EU Presidency

Beth Fernandez contributed to the ILGA-Europe memos sent to the Swedish and Spanish EU presidencies in respect of the ENP and Central Asian countries making the following recommendations in the case of the Swedish presidency:

ILGA Europe welcomes the particular emphasis placed by the Swedish Presidency on pursuing closer regional integration with Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine through the Eastern Partnership. We are however concerned that despite the overarching commitment to respect human rights and fundamental freedoms within the Joint Declaration of the Prague Eastern Partnership Summit, LGBT people risk remaining invisible unless it is clearly communicated in human rights dialogues and in ENP action plan successor agreements that the categories of vulnerable groups and minorities requiring tolerance and non discrimination include LGBT people.

ILGA-Europe therefore calls on the Swedish Presidency to:

- *Use bilateral engagement with ENP countries to ensure that all ENP action plan successor agreements include a commitment to pass comprehensive anti discrimination legislation and that it is clearly stated that references to vulnerable groups and minorities include LGBT people.*
- *Ensure that in multilateral engagement, the approximation of legislative and regulatory framework support involving relevant EU services includes anti discrimination legislation.*
- *Work with the Moldovan and Ukrainian authorities to ensure that the respective national anti discrimination laws currently in draft form, are adopted inclusive of LGBT people.*
- *Ensure that the situation of LGBT people is included in the human rights dialogues with Central Asian countries and raise decriminalization of consensual same sex relations in Uzbekistan and Turkmenistan.*

In July, we assisted Paata Sabelashvili with lobbying the Swedish Ambassador in Tbilisi asking him to contact the Georgian Broadcasting Corporation (GBC) in relation to incidents demonstrating institutional homophobia. Our role was to provide arguments which the ambassador could use in writing to the Broadcasting corporation linked to Georgia's aspirations within the Eastern Partnership. The ambassador sent a letter but we are unaware of any positive response from the GBC.

7.2. European Neighbourhood Policy

In April 2009, the European Commission published its **annual progress reports** on how ENP countries had met their action plan obligations during 2008. Disappointingly only one country (Ukraine) contained any mention of discrimination against LGBT and only in the area of prisons. ILGA-Europe sent a letter of concern to the Heads of Unit in the European Commission expressing disappointment in the face of evident problems in the area of freedom of assembly and non discrimination.

The letter from ILGA-Europe stated that among other absences, the progress report on Moldova mentioned that the implementation of the new legislation on freedom of assembly, adopted in February 2008 had been poor and required further awareness raising and training of relevant law enforcement personnel. However it failed to include the fact that one of the clearest illustrations of the poor implementation of this law was

the obstruction of the Pride Parade organized by Moldovan LGBT organization GenderDOC-M in May 2008 and the lack of police action when an angry and aggressive mob surrounded Pride participants on their bus thereby preventing them from leaving the vehicle. Given the seriousness of the human rights violations on that occasion and the fact that it is clearly part of trend involving LGBT in particular and lack of respect for freedom of assembly in general, this is a particularly significant omission

In October 2009, ILGA-Europe provided feedback to the European Commission in respect of the Indicative Programme 2011-13 for the Republic of Moldova.

We voiced concern at the lack of mention of non discrimination as a cross cutting ground and suggested that where the text refers to 'human rights' e.g. among cross cutting issues, that the text be revised to read 'human rights and non discrimination'.

We also requested that the proposed Association Agreement and any future action plans explicitly include a section on non discrimination and that this includes all grounds covered by Article 13 of the Treaty of Amsterdam including sexual orientation and gender identity. This will emphasise its importance and provide a sound basis for future monitoring of this vulnerable group in Commission progress reports.

We also proposed that the conditions attached to the elaboration of a deep trade agreement (DTA) should also include respect for human rights and non discrimination including the grounds of sexual orientation and gender identity.

On December 1st, ILGA-Europe together with project partners submitted feedback to the European Commission on each of the five ENP countries as regards the implementation of action plans. The aim was to provide some information on key problems in order to ensure that problems of sexual orientation and gender identity are mentioned in the 2010 progress reports.

7.2.1. ENP consultation meeting (Brussels December 14th).

This consultation comprised of a presentation by the Commission on the ENP and the ENPI. The event was also attended by Amnesty EU office, OSI, and Transparency International. The fact that few civil society organisations attended resulted in good visibility for LGBT issues. In addition OSI specifically mentioned minorities and non-discrimination in its contributions to progress reports on Ukraine and Moldova.

ILGA-Europe made several interventions. First a general remark about how the consultations with civil society are organised, encouraging them to look into 'best practices' of DG Enlargement. The second intervention related to feedback for ENP Progress reports - although we submitted information last year, only the report on Ukraine covered LGBT rights (please see section above). This year we would like to see all reports covering sexual orientation and gender identity discrimination, even if it is only noting with concern existing stigma and discrimination.

ILGA-Europe will continue to follow up on this by meeting with country desk officers and asking a parliamentary question in early 2010 about the inclusion of LGBT into progress reports.

7.3. Eastern Partnership

On 16-17th November, ILGA-Europe attended the inaugural meeting in Brussels of the Eastern Partnership (EaP) Civil Society Forum along with over 200 other representatives from civil society based in or working on the six Eastern Partnership countries, Belarus, Armenia, Azerbaijan, Georgia, Moldova, and Ukraine.

The creation of the Forum should in theory give civil society a means to influence the content of future agreements concluded between the EU and EaP countries. Previously under the European Neighbourhood Policy, civil society could only comment on the implementation of the action plan agreements negotiated between the EU and third countries. This meant that necessary improvements to the human rights of LGBT people have largely gone unmentioned in annual progress reports as LGBT were not included explicitly in the text of the action plans.

How exactly the Forum will operate is under discussion and participants elected 17 thematic and country representatives for one year to elaborate rules and procedures. One governing principle will be to ensure its transparency and openness so that all civil society groups can engage with this important new mechanism.

Participants were divided into 4 working groups mirroring the 4 thematic areas of the EaP to produce recommendations for the EU in their engagement with their EaP counterparts. ILGA-Europe participated in working group 1 (Democracy, human rights, good governance and stability) which produced recommendations that include the following:

- Ensure harmonization of legislation with EU standards including comprehensive anti discrimination legislation
- Urge states to adopt laws to prevent hate speech in public life, including the mass media on the issues of religion and national minorities, xenophobia and racism, sexual orientation and gender identity, and other groups.
- Encourage the implementation of projects based on tolerance, pluralism and diversity related to history and national cultures and religions, LGBT and other marginalized groups.

The recommendations from all four working groups were handed over to the EU for a meeting between EU and EaP foreign ministers on 8th December (http://ec.europa.eu/external_relations/eastern/civil_society/index_en.htm)

7.4. EU Central Asia Strategy

ILGA-Europe attended European Commission consultation on civil society input into the midterm evaluation of the Development Cooperation Instrument with respect to Central Asia

We consulted Labrys and Amulet and provided written feedback on a number of problematic issues for LGBT people. We subsequently asked both organisations to follow up and introduce themselves to local Commission delegations in Bishkek and Almaty.

7.5. EU Human Rights Dialogues

ILGA-Europe gave verbal and written feedback at an NGO consultation organized by the Czech Presidency prior to an EU-Georgia human rights dialogue. In consultation with Paata Sabelashvili we agreed to raise the lack of sexual orientation and gender identity in the annual report of the Public Defender, hate speech by the head of the Georgian Broadcasting Corporation and the need for education and awareness raising on SOGI. We were later informed by Riina Kionka that the incoming Swedish Presidency had raised the issues as part of the Troika conducting the human rights dialogues but had received a surprised response from the Georgian authorities.

8. Council of Europe

Beth Fernandez consulted with GenderDoc-M and Gender and Development about which issues to raise with the PACE monitoring committee for inclusion in their report. We also supported Gender and Development in preparation for their meeting with the PACE monitoring committee in Baku.

Beth Fernandez checked the status or existence of prohibitions against discrimination and hate crime against LGBT people at the national level in Moldova, Ukraine and the South Caucasus for inclusion in ILGA-Europe's submission to the CoE Committee of Ministers regarding their recommendation on SOGI.

9. UN Human Rights Committee

9.1. Supporting Azeri partners in their contribution to ICCPR shadow report on which we are cooperating with Global Rights.

From 20 to 21 July the UN Human Rights Committee considered the third periodic state report of Azerbaijan on meeting its obligations under the International Covenant on Civil and Political Rights (ICCPR).

ILGA-Europe together with Global Rights (www.globalrights.org) and Azeri LGBT organization, Gender and Development (www.lgbt.az) submitted a shadow report in respect of LGBT which can be found at www2.ohchr.org/english/bodies/hrc/docs/ngos/LGBT_Azerbaijan96.pdf. The joint report contained numerous cases of blackmail and harassment by the police of men having sex with men (MSM) and transgender sex workers in particular.

With regard to Article 26 (Non Discrimination) the Human Rights Committee expressed its concern '*at reports that individuals have been harassed by police and prison officials because of their sexual orientation*'. It made the recommendation that '*The State party should take measures in this respect by providing training activities to its law enforcement and penitentiary authorities and by elaborating a relevant Code of Conduct*'.

This recommendation is an important recognition of the need for governmental action to tackle a serious human rights violation which Gender and Development have been documenting over the three years of their existence.

9.2. Supporting Moldovan partners in their contribution to ICCPR shadow report on which we are cooperating with Global Rights.

On 13-14th October 2009, the UN Human Rights Committee (HRC) considered the report of the Government of Moldova on the fulfillment of its obligations under the International Covenant on Civil and Political Rights. The HRC's Concluding Observations took into account NGO shadow reports including one submitted by Moldovan LGBT organization GenderDoc-M, Global Rights, ILGA-Europe and the International Human Rights Clinic of Harvard Law School.

The Committee noted that discrimination based on sexual orientation appears to be widespread at all levels of society and that

The State party should take measures to combat discrimination based on sexual orientation, including training programmes for police officers and health-care professionals, as well as campaigns aimed at raising awareness, among potential victims, of their rights and of the existing mechanisms for redress.

In addition the HRC made recommendations on two issues which were raised not only in our shadow report but also by other Moldovan civil society organisations, namely the comprehensive anti discrimination law which has stalled in the Parliament and the continuing violations of enjoyment of the right to freedom of assembly recommending:

The State party should adopt comprehensive non-discrimination legislation which expressly outlaws all the grounds of discrimination set out in the Covenant, as well as provisions on adequate sanctions and compensation.

and

(d) Ensure respect for the right to freedom of assembly in accordance with article 21 of the Covenant, including through the enforcement of the 2008 Law on Assemblies and put in place safeguards, such as appropriate training, to ensure that such violations of human rights by its law enforcement officers do not occur again.

The Concluding Observations and NGO shadow reports can be found at <http://www2.ohchr.org/english/bodies/hrc/hracs97.htm>

10. General Project Management

During the project period, Beth Fernandez participated in PRECIS Project MT meetings in Istanbul, Amsterdam and Chisinau, PTF meetings in Istanbul and Batumi and one meeting with COC-Netherlands principally regarding finance in Brussels.

During the Istanbul PTF, ILGA-Europe sat down with Azeri and Armenian partners to agree details of advocacy planning trainings; presented September study visit to Brussels for project partners; and discussed action with Ukrainian partner in response to unhelpful attitude of Ukrainian Ombudsman's office towards LGBT rights

At the Batumi PTF meeting, Beth Fernandez prepared and led an advocacy discussion with partners covering anti discrimination law (components; argumentation for its introduction; campaigning for its intro). Also had individual meetings with Armenian and Ukrainian partners who have recently suffering HR violations