

## ILGA-Europe's submission to the European Commission's 2009 Progress Report on BiH

Brussels, May 29, 2009

### Political criteria

Human rights and the protection of minorities	
<i>Civil and political rights</i>	
<b>Freedom of assembly, association and expression</b>	<p>The First Queer Sarajevo Festival (QSF) was organized by Organization Q on September 24, 2008 with the aim to present 'life stories' of LGBTIQ persons through art and to mainstream queer theory, art and culture into Sarajevo cultural scene. Festival's organizational team has prepared five day program, including exhibitions, films (documentary and featured), round tables, and performances with the opening of three art exhibitions on 24th of September at the Gallery of the Academy of Fine Arts in Sarajevo, Bosnia and Herzegovina.</p> <p>Although protests against QSF were evident before its scheduled date, physical violence against the QSF, guests and organizers ensued at the opening ceremony. Violence was orchestrated and caused by several individuals and organized groups around the Academy as well as kilometers away. Eight people were injured during that night, while the organizational team became a target of hate speech and threats received constantly month before and after the opening of the Festival.</p> <p>Due to violence that occurred on the night of 24th of September and the serious threats on the following days the activities of the QSF were cancelled in the evening of September 26th.</p> <p>Organization Q sent an official letter, asking for meeting and cooperation in order to prevent any kind of physical violence during the Festival. Unfortunately, most of the institutions, including the Ministry for</p>

	<p>Human Rights and Refugees did not answer to this letter, or supported the Festival in public.</p> <p>Moreover, most of the politicians and representatives of state and religious institutions in Bosnia and Herzegovina expressed complete ignorance, prejudices and derogation of the LGBT population, describing them as ‘ill’ and in the need for medical assistance.<sup>1</sup></p> <p>Although some media, NGOs and the international community condemned the hate speech of such statements, no sanctions followed, which ultimately resulted in an open violence against the Queer Festival and the LGBTQ population in general.</p> <p>Although the police was informed and was present during the opening of the Festival, adequate protection was not provided for the participants. In fact, police has allowed the aggressive crowd of people shouting "kill the fagots" to gather at the very entrance of the building of the Academy of Fine Arts. The special police didn't react even after the physical attacks on the guests and participants of the Festival<sup>2</sup>.</p> <p>There is no information on whether any of the perpetrators of violence have actually been prosecuted.</p>
<p><b>Homophobic and transphobic violence/ hate crime and hate speech</b></p>	<p>The Criminal Code of BiH (Article 145), the Criminal Code of FBiH (Article 177), the Criminal Code of RS (Article 162), the Criminal Code of Brcko District (Article 174) include sexual orientation in their anti-discrimination clause.<sup>3</sup></p> <p>However, the Criminal Code of BiH does not contain any general provisions that expressly enable the homophobic and transphobic motives of the offenders to be taken into account by the courts as an aggravating circumstance when sentencing. While it enhanced penalties in case of murder, if the murder is committed on “racial, national or religious grounds”, sexual orientation is not included as a bias ground.<sup>4</sup></p> <p>The level of homo/transphobia is very high in BiH and almost every public appearance of an organization and/or an individual activist working on LGBT issues is followed by threats or actual violent attacks as demonstrated by violence following the opening of QSF.</p> <p>The Queer Sarajevo Festival stirred wave of homophobic hate speeches and threats directed towards both</p>

<sup>1</sup> Report on Queer Sarajevo Festival-Organisation Q-Sarajevo, BiH

<sup>2</sup> <http://us.oneworld.net/article/357677-sarajevo-queer-festival-attacked>

<sup>3</sup> The Invisible Q-Organisation Q-Sarajevo, BiH,2008

<sup>4</sup> <http://www.humanrightsfirst.info/pdf/071217-discrim-hc-report-card-2007.pdf>

	<p>LGBT activists and their supporters. Death threats that have been continually issued on the Internet against individual gay rights activists constantly month before and after the opening of the Festival, including a YouTube film showing digitally manipulated images of one of the organizers to make them look as if they were beheaded. A number of websites have called for the organizers of the festival to be lynched, stoned, doused with petrol or expelled from the country.</p> <p>Eight people were injured during the opening night and their safety has been put in danger by the local media, including <i>Dnevni Avaz</i>, <i>Nezavisne Novine</i> and <i>Oslobodjenje</i>, which published the names of all individuals who were injured during the attacks.<sup>5</sup></p> <p>Moreover, some politicians and certain parts of the media in Bosnia and Herzegovina legitimated attacks against the organizers and participants of the Festival by their homophobic statements.</p> <p>In September 2008, unrelated to the Festival, a violent incident occurred, involving physical violence against two gay men, from Sarajevo and Zagreb. Both of them were thrown out from the night club then were chased by a group of men who were present in the club around the city center. While one of them managed to escape and call the police, the other was captured in the park and badly beaten up. Police took the statements from both of them, and although they were given the names and nick names of the attackers, the victims have not received any feedback information regarding this.<sup>6</sup></p>
<p><i>Economic and social rights</i></p>	
<p><b>Discrimination/ Anti-discrimination policies</b></p>	<p>A comprehensive Anti-discrimination law has not been adopted despite the fact that the draft of the law has long been finalized.</p> <p>Homophobic and transphobic attitudes are deeply rooted in BiH which leads to social discrimination and exclusion of LGBT people. This discrimination and exclusion is further exacerbated by the state's informal and formal support of homo/transphobic attitudes.<sup>7</sup></p> <p>The recent research by Organization Q amongst LGBTI community reveals that many LGBTI people are</p>

<sup>5</sup> <http://www.amnesty.org/en/appeals-for-action/fears-violence-surround-sarajevo-queer-festival>

<sup>6</sup> Report on Queer Sarajevo Festival-Organisation Q-Sarajevo, BiH

<sup>7</sup> The Invisible Q-Organisation Q-Sarajevo, BiH,2008

‘not out’ because of the fear of social discrimination and exclusion. Social discrimination and exclusion are further exacerbated by the State’s informal and formal support of homo/transphobic views and attitudes in the country.

The Gender Equality Law of the Republic of BiH prohibits employment discrimination in the fields of advertisement, recruitment and dismissal, but it does not explicitly name sexual orientation.<sup>8</sup> The Brčko District Labor Law is the only entity that expressly protects individuals from employment discrimination on the basis of sexual orientation.<sup>9</sup>

Meanwhile discrimination in employment on the grounds of sexual orientation and gender identity happens on a regular base (if the person dares to come out or reveals his/her identity through appearance and gender expression). In the research by Organization Q, one individual stated that she was dismissed after her employer found out about her sexual orientation. Another individual was not hired because of her appearance /gender expression. People have also reported experiencing demeaning and verbally abusive comments while at work, mainly coming from colleagues.<sup>10</sup>

According the same research, one respondent have mentioned that an employee of a hospital have stated that ‘they all have to be burned’. Another person noted how his doctor often tries to convince him that he should change and that many serious illnesses can steam from his sexual orientation. Other examples also reflected doctors’ statements asserting that that homosexuality is a disorder, certain type of disease.<sup>11</sup>

There are also many reports of verbal and physical abuse by the police and failure to investigate the crimes perpetrated against LGBT people.

<sup>8</sup> Gender Equality Law, SG 16/03 from June 2003 Articles 1-3, available at <http://www.queer.ba/udruzenjeq/en/zakoni.htm#>

<sup>9</sup> Labor Law of FBiH, Art 5“a person seeking employment, as well as a person who becomes employed, shall not be placed at a disadvantage based on race, color, sex, language, religion, political or other opinion, national or social origin, property status, birth or any other circumstance (...).”

<sup>10</sup> The Invisible Q-Organisation Q-Sarajevo, BiH,2008

<sup>11</sup> Ibid