

ILGA-Europe's submission to the European Commission's 2010 Progress Report on Montenegro

Brussels, May 31, 2010

Political criteria

Human rights and the protection of minorities	
<i>Civil and political rights</i>	
Freedom of assembly and association	<p>Although freedom of assembly and association is guaranteed by the Constitution, these rights have not been exercised by the LGBT community in Montenegro. LGBT people in Montenegro prefer to conceal their sexual identity and refrain from speaking about their rights out of a legitimate fear of discrimination and stigmatization.</p> <p>There are no registered LGBT organizations in Montenegro but Youth Cultural Centre Juventas works with the GB community and advocates for the rights of LGBT people. Juventas is a partner in ILGA-Europe advocacy project in the Western Balkans.¹</p> <p>There have not been attempts to organize pride parades in Montenegro.</p> <p>In October, 2009 DAAD Alumni Montenegro in partnership with The European Commission on Sexual Orientation Law (ECSOL) organised a conference <i>Justice in the Balkans: Equality for Sexual Minorities</i>. The conference had regional significance with speakers from academia and activists from Europe and North America as well as representatives from the government of Montenegro.² No incidents were reported during the event.³</p>

¹ http://www.ilga-europe.org/europe/what_we_do/developing/projects/step_up

² http://www.ilga-europe.org/europe/guide/country_by_country/montenegro/justice_in_the_balkans_equality_for_sexual_minorities

³ <http://www.lu.se/justice-in-the-balkans>; http://www.ilga-europe.org/europe/guide/country_by_country/montenegro/justice_in_the_balkans_equality_for_sexual_minorities

<p>Homophobic and transphobic violence/ hate crime and hate speech</p>	<p>There is no hate crime legislation in Montenegro. The Criminal Code of Montenegro does not contain provisions that expressly enable the bias motives of the offenders to be taken into account by the courts as an aggravating circumstance when sentencing.⁴</p> <p>Although no official data is available on homo/transphobic hate crimes in Montenegro, the research conducted by Human Rights Action among 30 LGBT people shows that half of the respondents experienced some form of violence or discrimination that they have not reported because of the fear of homophobic reaction of the authorities.⁵</p> <p>Indeed, most homophobic hate crime cases go unreported due to the lack of trust in police, the fear to be victimized and outed. Moreover, police officers themselves are often the perpetrators of violence against LGBT people.</p> <p>The Report on Montenegro to 3rd Round of the Universal Periodic Review describes a case where “Several witnesses have reported that members of the police have brutally beaten two young men from the capital city of Podgorica and left them naked after catching them being intimate with each other in a suburban area of the town. This incident has not been duly investigated, nor the responsible officers punished in any way.”⁶</p> <p>In another case described in an article called ‘<i>Montenegro’s Gay Community Stays Hidden to Survive</i>’ two gay men were severely beaten up because of their sexual orientation and ended up in a hospital with broken cheekbone and punctured eardrum. They didn’t give the full statement to the police on the reasons for the attack because they didn’t want to reveal their sexual orientation.⁷</p>
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⁴ <http://www.humanrightsfirst.info/pdf/071217-discrim-hc-report-card-2007.pdf>

⁵ <http://www.hracion.org/?p=355>

⁶ *Report on Montenegro – 3rd Round of the Universal Periodic Review – December 2008* - Sexual Rights Initiative and others

⁷ <http://www.balkaninsight.com/en/main/news/22951/>

	<p>The most known case of homophobic violence was the one against Serbian gay activist Atila Kovača who was attacked in 2005 when visiting Montenegro. Although the police arrested 3 of the attackers, no charges were brought against them.⁸</p> <p>Juventas also reported that LGBT people are often subjected to harassment and blackmailing by groups of hooligans in the cruising areas in Podgorica. Juventas also knows of some right wing hooligan groups in Montenegro, who are very hostile towards LGBT people.</p>
<i>Economic and social rights</i>	
<p>Discrimination/ Anti-discrimination policies</p>	<p>General prohibition of discrimination is provided for under Article 8 of the Constitution of Montenegro. However, sexual orientation and gender identity are not mentioned as grounds for nondiscrimination. Anti-discrimination law is currently in the process of adoption.</p> <p>Homophobic and transphobic attitudes are widespread in Montenegro. The public opinion poll conducted in 2009 revealed that 71% of the population think that homosexuality is a disease, 58% believe that homosexuality is very dangerous for the society, 67 % think that the church is rightfully against homosexuality and another 58% expect the state to suppress homosexuality.⁹</p> <p>In this atmosphere of hostility LGBT people are forced to remain invisible and undercover. No actions are taken by the authorities to create safe and tolerant environment for LGBT people to organize and take actions. On the contrary many leading politicians explicitly express their homophobic attitudes and their disapproval of the existence of LGBT people.</p> <p>In November 2009 the Minister of Human and Minority Rights of Montenegro, Mr. Ferhat Dinoša announced that the ‘existence of homosexuals in Montenegro is a bad piece of news for the country’ and that he is personally not happy about that. ILGA-Europe and the European Parliament reacted to this announcement urging the government of Montenegro to maintain the</p>

⁸ http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/ME/SRI_MNE_UPR_S3_2008_TheSexualRightsInitiative_uprsubmission.pdf

⁹ *Homophobia in Montenegro. October 2009.* Human Rights Action (2009) . <http://www.hraction.org/wp-content/uploads/homophobia-in-montenegro-presentation.pdf>

commitment to protect and promote the human rights of all its citizens, including LGBT people. At the same time 14 NGOs in Montenegro required that the Prime minister takes action in response to the mentioned statement by the minister. However, as mentioned by Human Rights Action 'the law of political game is still above the exercise of the constitutional ideal of fighting all forms of hatred in Montenegro, including the one towards transsexual people and people of minority sexual orientation.'¹⁰

In this hostile environment LGBT people face discrimination both in public and private sphere. In most cases, however, LGB people conceal their sexual orientation to avoid discrimination and even if they do face discrimination based on their perceived sexual orientation they rarely report those cases. Juventas received reports of employment discrimination and bullying at schools based on sexual orientation.

Homophobic statements by leading politicians and health care professionals further exacerbate and legitimize discrimination against LGBT people in the country.

Professor Dragan Koprivica, the manager of the Socialist National Party media center, expressed in the independent daily newspaper 'Vijesti' on December 25, 2008, that homosexuality as 'social anomaly' which should be cured "but not violently"¹¹.

Leading neuropsychiatrists in Montenegro and persons who occupy important positions in national health system consider that 'homosexuality is a disturbance of instinct and as such it is cured through psychotherapy' and that 'in Montenegro this [homosexuality] is not a common disease'¹². In November 2009, the Head of Neuropsychiatry of the Clinical Center of Montenegro announced in a TV show 'Replika' that ' Whether we accept it [homosexuality] as a

¹⁰ <http://www.hraction.org/?p=355>

¹¹ Independent daily newspaper 'Vijesti' : <http://www.vijesti.cg.yu/index.php?id=291712>

¹² *Report on Montenegro – 3rd Round of the Universal Periodic Review – December 2008* - Sexual Rights Initiative and others

	disease or not the international classification of diseases, which is valid everywhere in the world, nominates it as a diagnostic category'. ¹³
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¹³ Report-Chronology of Oct-Dec 2009events by Juventas