

# ILGA-Europe's submission to the European Commission's 2011 Progress Report on Montenegro

Brussels, April 29, 2011

## Political criteria

Human rights and the protection of minorities	
<i>Civil and political rights</i>	
<b>Freedom of assembly and association</b>	<p>Freedom of assembly and association is guaranteed by the Constitution.</p> <p>In January 2011, a new LGBT organisation, LGBT Forum Progress was registered in Montenegro.<sup>1</sup> Juventas is another organisation working on LGBT issues in Montenegro.</p> <p>For the first time, LGBT people in Montenegro are planning to exercise their right to freedom of assembly. Podgorica Pride is planned for 31 May 2011. The organizer of the Pride, the leader of LGBT Forum Progress, has already received a number of death threats. The Prime Minister Luksic has formally supported the Pride. However, the Minister for Human and Minority Rights Mr. Dinoša declined the request by LGBT Forum Progress to support the Pride and expressed that he doesn't think the Pride events are the most appropriate way of asserting the rights of LGBT people. Referring to 2010 Belgrade Pride he was quoted saying that 'The position of that population should be resolved in a way that would not spark a social conflict. We have seen in the region that pride parades do not produce positive things for (gays).'<sup>2</sup></p> <p><u>A representative from ILGA-Europe will participate in the Pride. More information on the event will be provided to the Commission at a later stage.</u></p>
<b>Hate crime and hate speech, public</b>	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

<sup>1</sup> [http://www.ilga-europe.org/home/guide/country\\_by\\_country/montenegro/first\\_lgbt\\_group\\_begins\\_work\\_in\\_montenegro](http://www.ilga-europe.org/home/guide/country_by_country/montenegro/first_lgbt_group_begins_work_in_montenegro)

<sup>2</sup> <http://www.france24.com/en/20110419-montenegro-prepares-first-gay-pride-parade>

<b>statements targeting LGBT people</b>	<p>account by the courts as an aggravating circumstance when sentencing.</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.<sup>3</sup></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. In the 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.<sup>4</sup></p> <p>In November 2010, the leader of the LGBT Forum Progress, Zdravko Cimbaljevic was verbally and physically attacked and threatened to be killed because of his perceived sexual orientation. When he reported the case, the police officer was constantly refusing to record that the victim was attacked because of his sexual orientation noting that it's 'not relevant information'. Mr. Cimbaljevic then sent complaints to various institutions demanding that the perpetrator is charged for the offense. Eventually the perpetrator was charged in December 2010 but the homophobic motive of the attack was not taken into account and he was only issued a fine for misdemeanor. Mr. Cimbaljevic believes that if he didn't pursue the case and fight for his rights the perpetrator of the violence would go unpunished.</p> <p>Homophobic statements by the political leaders continue to be a problem, which is particularly worrying coming from institutions that are meant to protect human rights.</p> <p>Following the reactions by the international community to his infamous statements in 2010,</p>
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<sup>3</sup> <http://www.hraction.org/?p=355>

<sup>4</sup> <http://www.balkaninsight.com/en/article/montenegro-s-gay-community-stays-hidden-to-survive>

when he expressed his discontent about the existence of LGBT people in Montenegro, the Minister for Human and Minority Rights, Mr. Ferhat Dinoša ‘delegated the work on LGBT issues’ to his deputies while continuing to assert his homophobic views on a number of occasions.

On January 15<sup>th</sup>, 2011 in an interview to daily newspaper “Vijesti” Minister Dinoša denied the existence of discrimination against LGBT people in Montenegro. ‘Nobody complained to us regarding any form of discrimination in this issue’ he noted.<sup>5</sup> In a meeting of the Parliamentary Board for Human Rights and Freedoms, he emphasized again that the rights of LGBT people cannot be on an equal footing with the rights of other minority groups. On March 15<sup>th</sup>, 2011 on TV Montana, the Minister reinstated that he has no intention of challenging the ‘moral code of the majority’ and revealed that his religious beliefs stand above his duties as Minister for Human and Minority Rights. In response, on March 18<sup>th</sup>, 2011, 16 NGOs in Montenegro addressed a letter to Prime Minister Luksic requesting to replace Minister Dinoša with someone ‘who understands the concept of human rights and is prepared to fight for equality of all Montenegrin citizens.’<sup>6</sup>

Homophobic statements have also been made by some Parliamentarians during the session of the Parliamentary Board for Human Rights and Freedoms on February 25<sup>th</sup>, 2011. Quoting the results of the opinion poll on homophobia in Montenegro: ‘Around 68% of general population thinks that homosexuality is a disease, 20% would assault them verbally and 10% physically’ MP Ervin Spahic noted ‘[...] it makes almost 100%. That means that no one supports them [LGBT people]’ justifying the position of Minister Dinoša.

LGBT people are often portrayed as ‘sick’, needing medical help in media. On October 11, 2010 a secondary school professor of psychology who was invited to take part in the TV Show “Glamour Noir” on Montenegrin Atlas TV presented homosexuality as a "sexual disorder" and herself as a ‘therapist for homosexuals’. We have been informed that the same Atlas TV channel has a contract with the Delegation of European Commission in Montenegro to

<sup>5</sup> <http://www.vijesti.me/vijesti/dinosa-drzava-nedovoljno-ozbiljno-stiti-manjine-clanak-2275>

<sup>6</sup> <http://www.hraction.org/?p=712>

	<p>represent European values in their TV programme.</p> <p>Commissioner for Human Rights of the Council of Europe, Thomas Hammerberg has published on December 8<sup>th</sup>, 2010 a letter addressed to the Prime Minister of Montenegro, as a follow up to his report on Montenegro published in 2008. In the letter to then Prime Minister Milo Djukanovic, the Commissioner noted that ‘a number of public statements targeting LGBT people were made in 2009 and 2010, including by certain officials and opinion makers, thus manifesting a continuing intolerance and hostility towards LGBT people.’ and expressed his concern about the ‘apparent lack of measures in response to such manifestation of intolerance.’ He further encouraged the authorities to broadly raise awareness on the principles contained in the Law on Anti-Discrimination adopted in July 2010 by Montenegro.<sup>7</sup></p>
<i>Economic and social rights</i>	
<b>Discrimination/ Anti-discrimination policies</b>	<p>Comprehensive anti-discrimination law was adopted on the 27<sup>th</sup> of July, 2010. The law provides protection from sexual orientation and gender identity discrimination amongst others. The enforcement and implementation of the law is still to be seen.</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.<sup>8</sup> In this environment of intolerance 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.</p>

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<sup>7</sup> <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1715821>

<sup>8</sup> *Homophobia in Montenegro. October 2009. Human Rights Action (2009)* . <http://www.hraction.org/wp-content/uploads/homophobia-in-montenegro-presentation.pdf>