

# Excerpts from EC 2014 Strategy and Progress Reports

## Enlargement Strategy 2014-2015

### *ii) Fundamental rights*

The Commission is carefully monitoring the situation as regards civil, political, social and economic rights, as well as the rights of persons belonging to minorities in the enlargement countries. Fundamental rights are largely enshrined in law but more needs to be done to ensure they are fully respected in practice. Freedom of expression and media remains a particular concern. **There is a need to better protect the rights of persons belonging to minorities and to tackle discrimination and hostility towards vulnerable groups, including on grounds of sexual orientation.** (page 13)

### *Sexual orientation and gender identity*

Homophobia, discrimination and hate crimes, including violence and intimidation on the basis of sexual orientation and gender identity are still widespread in the Western Balkans and Turkey. **There is an urgent need for anti-discrimination legislation to be extended to include sexual orientation and gender identity within its scope in Turkey and the former Yugoslav Republic of Macedonia. Hate crime legislation still needs to be introduced in these two countries as well as Bosnia-Herzegovina and Kosovo. Training of law enforcement, ombudsman institutions, judges and media professionals is needed to raise awareness of new legislation, to ensure proper implementation and contribute to increasing understanding.**

**A zero-tolerance approach to hate speech, violence and intimidation is needed as is strong leadership from the authorities to bring about a change in the frequently hostile societal attitudes towards lesbian, gay, bisexual, transgender and intersex (LGBTI) people. Countries need to take measures to counter stereotypes and misinformation, including in the education system. Religious or cultural values cannot be invoked to justify any form of discrimination. Freedom of assembly and expression should be protected, including through appropriate handling of pride parades.**

The Commission will organise a high-level conference in late autumn together with the European Parliament and the Italian Presidency of the Council to take stock of the state of play and progress achieved on LGBTI issues and to share best practice. (page 15)

## Country Progress Reports 2014

### Albania

**As regards the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, cooperation between the state authorities and civil society organisations on this issue improved.** The International Day Against Homophobia was celebrated in May by Tirana's third pride parade and a number of other activities throughout the country. There were no cases of homophobic speech by politicians or state officials. Draft amendments to revise the family code and provide legal recognition of the cohabitation of same-sex couples remains to be adopted. **An inter-ministerial working group to ensure implementation of the action plan on the rights of LGBTI people has still not been set up and public awareness of LGBTI rights remains very low.** (pages 47-48)

### Bosnia and Herzegovina

Concerning rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, the **anti-discrimination law does not include a clear definition of gender identity and sexual orientation and refers to sexual expression and/or orientation as grounds of discrimination.** Sexual orientation and gender identity are not included as grounds for hate crime in the criminal law of the Federation. In the Sarajevo Canton, 19 police officers have been trained on LGBTI rights.

**Discrimination against LGBTI people remains widespread. Hate speech, hate crimes and violent attacks against LGBTI people and human rights defenders have increased along with the higher visibility of the LGBTI community.** The number of complaints on discrimination and violence officially registered with the police and the Ombudsman remains low. **Awareness on LGBTI rights remains very low among the judiciary, law enforcement agencies and the general public.** Participants in the LGBTI film festival Merlinka in Sarajevo in February were attacked and two were injured. Police did not intervene promptly to ensure protection. **Hate speech and hate crime remain an issue of concern.** (pages 19-20)

Effective prevention and investigation of cases of hate speech, violence and discrimination against in particular LGBTI persons need to be ensured. (page 20)

### Fyi Macedonia

As regards the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, the violent incidents against the LGBTI Support Centre have not been repeated. Nevertheless, the perpetrators of these incidents are yet to be prosecuted. **Considerable efforts are needed to increase awareness of and respect for diversity within society, and to counteract the intolerance perpetuated through the media and social**

**networks.** Data on the reporting, investigation and prosecution of hate speech and hate crime is not collected systematically and training of law enforcement, prosecutors and judges needs to be stepped up. **The Law on Prevention and Protection against Discrimination still needs to be aligned with the EU acquis as it does not prohibit discrimination on the grounds of sexual orientation.** (page 12)

As regards the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, the violent incidents of the previous reporting period have not been repeated. Nevertheless, the perpetrators of these incidents are yet to be prosecuted. Continued efforts are needed to increase awareness of and respect for diversity within society and to counteract intolerance perpetuated through the media. (page 46)

Far more focus needs to be placed on effective implementation of the existing fundamental rights framework, notably as regards funding, staffing, awareness raising, inter-agency cooperation and strategic planning, in particular in the areas of prisons, children's rights, anti-discrimination, LGBTI rights and the Roma. The situation as regards the freedom of expression remains problematic and greater efforts are needed to improve the media culture. (pages 47-48)

### **Kosovo\***

A verdict was reached in the 'Kosovo 2.0' case, in which a launch party for a special issue of the magazine on sex, sexual orientation and gender identity was attacked. All three defendants were found guilty and received suspended sentences. One of the charges was withdrawn as it was covered by the law on amnesty. There were a few defamation cases, but the journalists involved were acquitted. (Page 17)

The Law on Anti-discrimination needs to be adopted and aligned with the laws on the Ombudsperson and gender equality. **Cases of hate speech, targeting mainly members of sexual minorities and ethnic minorities, are rarely investigated. Preventive measures such as awareness raising remain scarce. Kosovo's political leaders need to do more to promote tolerance.**

**In December, the government adopted a decision to establish an advisory and coordinating group for the rights of the lesbian, gay, bisexual, transgender and intersex (LGBTI) community. The group still has to prove its practical impact.** Threats against LGBTI activists continue. A first pride walk was held in Pristina on 17 May to mark the day against homophobia. (page 19)

### **Montenegro**

Some progress was made on lesbian, gay, bisexual, transgender and intersex (LGBTI) issues, especially through capacity-building activities for civil servants and police officers. Attacks against LGBTI persons and activists continued, reflecting a widespread hostility to sexual diversity. (page 11)

As regards lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, **the 2014 action plan for the LGBT Strategy was adopted. The first pride parade in Podgorica took place in October 2013, supported adequately by the authorities; however, groups of anti-LGBTI protesters damaged property in the city and injured several police officers. The first LGBTI community centre opened in Podgorica and was subject to several attacks. In none of these cases the perpetrators have been identified and prosecuted; the issue of police protection needs to be better addressed.** A first wave of training for police officers was organised, with a view to establishing trust between law enforcement personnel and the LGBTI community. Ongoing anti-discrimination campaigns in schools, aimed at students and teachers, should be continued. **A memorandum of understanding was signed between the Supreme Court and one of the LGBTI civil society organisations in March, to improve the cooperation in the field of trainings for judiciary. However, criminal convictions for attacks against members of the LGBTI community remain few, while cases are often classed as minor offences. Attacks on LGBTI community members and activists continued, reflecting a widespread hostility to sexual diversity.** (page 45)

## **Serbia**

The holding of the pride parade in Belgrade on 28 September without major incidents marked a substantial step towards the effective exercise in Serbia of human rights in general and LGBTI (lesbian, gay, bisexual, transgender and intersex) rights in particular. Notwithstanding the government's good preparatory work for this event, enhanced political support for the promotion of fundamental freedoms is needed. **There is also a need for a consistent and visible political commitment to promoting a culture of respect towards the LGBTI community. Discriminatory statements, intimidation and violence still occur without substantial political reaction nor appropriate follow-up by authorities.** An action plan for the implementation of the anti-discrimination strategy has been adopted in October 2014. A national mechanism for monitoring the implementation of the UN human rights bodies' recommendations remains to be adopted.(page 13)

In the field of anti-discrimination policy, the Equality Protection Commissioner's office continued its awareness-raising activities on discrimination and mechanisms for protection against discrimination. However, the capacity of the Office still needs to improve. An action plan for the implementation of the strategy for the fight against discrimination was adopted in October 2014. The anti-discrimination law remains to be further aligned with the acquis. The groups most discriminated against remain the Roma, sexual minorities, and persons with HIV/AIDS. **Notwithstanding the government's good preparatory work for the pride parade, a more visible political commitment to promoting a culture of respect towards the lesbian, gay, bisexual, transgender and intersex (LGBTI) community and raising awareness is needed.** Training has been provided for the police on anti-discrimination and equality issues. (page 37)

In relation to the promotion and enforcement of human rights, the government's Office for Human and Minority Rights, but also relevant parliamentary committees, independent

bodies and civil society organisations, have carried out various activities to promote respect for human rights, tolerance and anti-discrimination. **The Office continued with training courses for legal practitioners, police officers and social workers on the rights of the LGBTI population. However, the implementation of relevant international instruments is still insufficient, particularly at the local level.** The role and the position of the Office need to be strengthened. A national mechanism for monitoring the implementation of the UN Human Rights Bodies' recommendations, enabling an overview on recommendations still to be met, remains to be established.(page 44)

**Awareness and protection of the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons have started to improve, but this needs to be sustained. The Ministry of Interior appointed a liaison officer for the LGBTI community, with whom dialogue improved. This contributed to the pride parade being held in Belgrade on 28 September without major incidents. Discriminatory statements in Serbian society still prevail, however. A continued and more visible political commitment to promoting a culture of respect and raising awareness is needed. Discrimination based on sexual orientation is still regularly reported in employment. LGBTI activists continue to be subject to threats and hate speech, and a track record of investigations and convictions where appropriate remains to be established.** (page 47)

Regarding fundamental rights, proactive steps have been taken to create an enabling environment that guarantees fundamental freedoms. The holding of the pride parade in Belgrade on 28 September without major incidents, following good preparatory work by the government, marked a substantial step towards the effective exercise of human rights in general and LGBTI rights in particular. An action plan for the implementation of the anti-discrimination strategy was adopted in October 2014.(page 50)

## **Turkey**

Legislation adopted in February 2014 improved the situation of the socially vulnerable and people with disabilities. The principle of non-discrimination on the basis of disability is now explicitly mentioned in the national education law and the labour law. Further work is needed to provide equal access to education opportunities, integrate people with disabilities and bring practice in line with European standards. **Further work is also needed to bring anti-discrimination legislation and practice in line with EU *acquis*, in particular by including reference to discrimination on the basis of sexual orientation and gender identity.** (page 16)

In the field of anti-discrimination, the principle of non-discrimination on the basis of disability was introduced into the national education law and the labour law. Furthermore, a revision of Article 122 of the Turkish Penal Code introduced penalties for discriminatory, hate based practices in economic activities and in employment. **There is still no**

**protective legislation regarding discrimination on the basis of sexual orientation or age. (page 41)**

Lesbian, gay, bisexual, transgender and intersex (LGBTI) pride parades went ahead without disruption in major cities, with the right to assembly being respected.(page 52)

Concepts such as 'general morality', 'Turkish family structure', 'national security', and 'public order' were used widely and allowed too large a margin of discretion to authorities, hindering the respect in practice of freedom of association. Two LGBTI associations faced closure requests based on 'general morality'. (page 53)

The Turkish Criminal Code regulates anti-discrimination, listing language, race, colour, gender, disability, political opinion, philosophical belief, religion, sect and similar reasons as bases on which discrimination is not permitted. It was amended to refer to hate crimes and to increase penalties for discrimination. Refusing to sell or rent a movable or immovable property to a particular person, while this has been offered to the public, is considered discrimination and has become a crime. **However, discrimination on the basis of ethnic origin, sexual orientation and gender identity were not listed in the March revision of the Criminal Code.** This affects especially important minorities as Roma and Kurds that are the most disadvantaged groups.

**A draft law on the establishment of an Anti-discrimination and Equality Board remained pending at the Prime Ministry. References to discrimination on grounds of sexual orientation or gender identity were taken out of the initial draft. Respect for the fundamental rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons needs to be improved.** Regarding the right to life, 4 transgender people were killed as a result of suspected hate crimes. Court sentences for hate crime offenders were often reduced on the basis of 'unjust provocation' by the victim and good behaviour. In addition, in numerous cases, crimes against people of a different sexual orientation or gender identity remained unpunished. Shortcomings in the investigation and prosecution of crimes were reported, as well as reluctance by LGBTI people to file complaints.

A self-identified LGBTI person was elected to serve on a municipal council in Istanbul. However, there were cases of discrimination at the workplace. Cases were reported of civil servants being dismissed from their jobs due to the disclosure of their sexual identity, and three court cases on grounds of discrimination on sexual orientation have been ongoing. A police officer's appeal against dismissal from his profession for his sexual orientation was awaiting a trial date.

**Transgender people faced bureaucratic difficulties after sex-change operations and discrimination in access to health services. LGBTI sex workers faced police violence, arbitrary administrative interventions, fines and discriminatory measures aimed at protecting 'general morality' and 'general health'. A 2012 ECtHR judgment, where the court upheld a complaint relating to sexual orientation by a gay man about the treatment he suffered while in detention, was not implemented (X v. Turkey case).**

The Turkish Armed Forces' disciplinary system continued to define homosexuality as 'unnatural' and envisaged the discharge of 'morally indecent' personnel. The military's Medical Competence Regulation continued to refer to homosexuality and transsexuality as illnesses. (pages 57-58)

There is a need for comprehensive reform of the legal framework on freedom of thought, conscience and religion, and the application of this framework, to bring these into line with EU standards. **Further sustained work is needed to:** guarantee women's rights and gender equality in practice; improve children's rights; **bring anti-discrimination legislation and practice in line with EU standards, notably by including references to discrimination on the basis of sexual orientation and sexual identity; and guarantee cultural rights and rights of people belonging to minorities.**(page 62)