

ILGA-Europe's Feedback on the European Commission's 2010 Progress Reports

Brussels, 10 November 2010

Each year the European Commission adopts its strategy on EU Enlargement which includes a summary of the progress made by accession and pre-accession countries towards European integration in the course of the past year.

On 9 November, 2010 the Commission issued its 2010 Progress Reports on Croatia, Iceland, the FYR of Macedonia, Turkey, Bosnia and Herzegovina, Serbia and Kosovo^{*}. The progress reports on Albania and Montenegro are replaced this year by the Commission's Opinions on the readiness of the two countries to start accession negotiations.

The reports and the opinions can be found at:
http://ec.europa.eu/enlargement/press_corner/key-documents/reports_nov_2010_en.htm

ILGA-Europe welcomes the way in which the human rights of LGBT people are raised in this year's Progress Reports and Opinions. LGBT issues are covered in all reports and references are made to the human rights violations of LGBT people and to the non-compliance of the states to their human rights obligations under European/Accession partnerships.

^{*} Under UNSCR 1244/1999

The Commission states that amongst the candidate countries some progress has been made by Croatia and limited or no substantial progress by FYR Macedonia and Turkey in the fields of fundamental rights and anti-discrimination policies, particularly in reference to LGBT people.

While the comprehensive anti-discrimination law has been enacted in **Croatia**, the Commission points to the fact that the public awareness of the law is limited and very few discrimination complaints reach the courts. It further states that LGBT people face threats and attacks with limited follow up by the Croatian authorities and that the last should do more to enforce the hate crime legislation.

The anti-discrimination law has been adopted in **FYR of Macedonia** in April 2010. However, the omission of the sexual orientation ground from the law was viewed by the Commission as a notable gap. The Commission reiterates in the report that the Anti-discrimination law of the FYR Macedonia 'does not comply fully with the *acquis*' and that the dialogue with the civil society was low. Moreover, it points to the fact that LGBT people face discrimination on a regular basis and encourages the government of FYR of Macedonia to raise awareness on tolerance and non-discrimination.

In **Turkey**, the launching of the closure case against the LBTT Black Pink Triangle Association was considered by the Commission as restriction on freedom of association. At the same time, the legal framework is not aligned with the EU *acquis* while the cases of discrimination particularly at the work place and in health care against LGBT persons continue. The Commission also spells out that some laws, namely the Criminal Code and the law on Misdemeanour are often used to discriminate against LGBT people, particularly transgender persons. When referring to the statements by the State Minister responsible for Women and Family on homosexuality being a disorder, the Commission makes clear that 'Negative stereotyping by political figures can provoke further discrimination against LBTT people'.

As for the potential candidate countries both **Montenegro** and **Albania** were assessed to have made progress in legislation approximation by adopting comprehensive antidiscrimination laws in 2010. The anti-discrimination laws in both countries provide protection on the grounds of sexual orientation and gender identity, amongst others. At

the same time, the Commission mentions that in practice there is widespread discrimination against LGBT people in both countries and that more should be done by the authorities to guarantee protection of the fundamental rights of LGBT people. It emphasises the importance of ensuring effective implementation of newly enacted laws as to prevent, monitor, sanction and prosecute discrimination cases. The Commission also criticises the biased and insensitive approach of the Minister for Human and Minority Rights of Montenegro towards LGBT people in the country.

Serbia received a much better review this year and was assessed to have made a step forward in promoting fundamental rights by both ensuring the safe Pride March in October 2010 and by appointing the Commissioner to enforce the anti-discrimination legislation adopted in 2009. The Commission, however, noted that LGBT people still continue to face discrimination and are exposed to hate speech and threats which are rarely followed up by the Serbian authorities. Hence, it maintains that further efforts are needed to ensure that LGBT people in Serbia are protected from discrimination in practice.

No progress has been noted in **Bosnia and Herzegovina** in relation to anti-discrimination policies and protection of citizens' fundamental rights. The report refers to the existing discrimination and violence against LGBT people and criticises the government for the lack of follow up and condemnation of those cases. The Commission complements **Kosovo*** for carrying out an anti-discrimination campaign but also notes that the public awareness on LGBT issues remains low. It, therefore, encourages the government of Kosovo* to do more to ensure the proper implementation of the anti-discrimination law.

The inclusion of LGBT rights in the Commission Enlargement Strategy documents is to a very large part a result of documentation of human rights violations and active advocacy work by ILGA-Europe and its member, partner organisations. ILGA-Europe

* Under UNSCR 1244/1999

provided written contributions to the progress reports to the European Commission in May 2010 and also facilitated the participation of 10 activists from Croatia, FYR of Macedonia, Turkey, Albania, Montenegro and Serbia in the consultations with the European Commission on the reports. In addition, ILGA-Europe supported local LGBT organisations in building the necessary capacities and resources to document the human rights violations of LGBT people and use that documentation for advocacy in national and international level. ILGA-Europe together with its partners and allies will continue documentation and advocacy to ensure that the human rights issues of LGBT people are covered in the future progress reports and are incorporated in partnership agreements with the countries.

EU's Enlargement Policy and its conditionality towards aspirant countries proved to be and continues to be an important and effective advocacy tool in influencing the human rights situation of LGBT people in the Western Balkans and Turkey. It has been used efficiently by ILGA-Europe and its members in their national and international advocacy work. Apart from Turkey and FYR Macedonia, all countries aspiring to become EU members have adopted comprehensive anti-discrimination laws including sexual orientation and some also gender identity as protected grounds. It has to be said however, that meeting the benchmarks set by the EU is not only about ticking the boxes on legislative reforms but also about genuine commitment to the principles of human rights and non-discrimination and the political will to promote those principles and values.

ILGA-Europe encourages the Commission to continue monitoring not only legislative approximation but also actual implementation of the anti-discrimination laws and asserting that fundamental rights are for all and should be protected in reference to LGBT people if the aspirant countries are to become EU members.