



## **Contribution from Aleanca LGBT, ProLGBT, ILGA-Europe and ERA for Albania's Report 2016**

*Submitted: 12 May 2016, updated 1 June 2016*

### **Summary of key developments and trends**

At least 180 activists, community members and allies took part in the Tirana Gay (P)Ride on the 14<sup>th</sup> of May 2016, on the occasion of International Day Against Homophobia and Transphobia (IDAHOT). No incidents were reported.

The Ministry for Social Welfare and Youth (MSWY) invited civil rights organisations to be part of the process of drafting a Plan of Actions. This plan was finally approved by the Government in May 2016. It indicates the strategic approach that Albania will follow until 2020 on LGBTI related issues. The Plan (which according to Albanian law is now legislation to be enforced) will be focused on three main interventions:

1. Improvement of legislation and raising awareness on LGBTI issues
2. Elimination of all forms of discrimination of LGBTI people
3. Improvement of access of LGBTI people to employment services, education, health care, housing and sports by guaranteeing them equal opportunities

This is the first time that the Government not only adopts a plan like this, but it also provides a concrete budget for all the activities. The overall cost for the plan is estimated at around 2.2 million Euros (extended in a 4 year period) of which the state budget will be able to cover around 37 percent of overall costs. The largest proportion of the plan itself will aim in strengthening LGBTI organisations and supporting the services that these organisations are providing and will provide for the community. The rest of the costs should be covered by international donors. According to the plan, a special working group will be established to monitor its implementation. The government, the independent institutions like the Ombudsman, Commissioner of Protection from Discrimination and all LGBTI organisations will be members of this working group.

Aleanca LGBT and ProLGBT, together with Peace Corps volunteers, successfully organised several meetings with young people outside Tirana, in the cities of Lezhe, Sarande, Korce, Kelcyre, Kukes, Elbasan, Fier, Vlore and Berat. The first long featured documentary on the LGBTI movement was screened in those cities. This documentary was also shown at several international film festivals and received awards at some of these events. The documentary has been a great tool to raise public awareness.

The first residential shelter STREHA for homeless young people aged 18 to 25 years, which was founded by Aleanca LGBT and ProLGBT, was able to assist to 18 beneficiaries in 2015. It was officially acknowledged by the state as a national service and received the official license for the service it offers. Domestic violence remains an important challenge to address.



## **Main action points for the coming year**

It is important to note that all the necessary actions are clearly planned and structured in the Action Plan.

The government should be urged to:

- Amend the article that defines cohabitation as only between a man and a woman, based on the Albanian Constitution, the 2015 Albanian Parliamentary Resolution on LGBTI issues, the Anti-Discrimination Law and recent judgements by the European Court of Human Rights. Furthermore, positive public awareness on this issue should be raised, through cooperation between the Parliament, political parties, the government and civil society organisations. The working group that will monitor the implementation of the National Action Plan will identify potential amendments.
- Consider STREHA, the residential shelter for LGBTI young people who face domestic violence, as a beneficiary from state budget as it offers a full national service.
- On education system: Raise awareness among teachers, students, parents and psychologists about violence and abuse against LGBT individuals, as well as on the LGBT community in general, to actively fight homophobic and transphobic school-bullying. This could be done through various campaigns, and other activities, coordinated by multiple actors, including LGBT organisations.
- On the health care system: Raise awareness among health practitioners on the specific needs of LGBT people, barriers and discrimination of LGBT people in the health care system, as well as violence and abuse against LGBT individuals.
- On transgender issues: Raise awareness, especially among the media, on transgender issues in order to raise social acceptance of trans people and initiate a public debate on legal gender recognition, and adopt the law on legal gender recognition that was drafted by local and international experts, supported by the Council of Europe and civil society organisations.

## **Bias motivated violence, hate speech, hate crimes**

In the 2015 progress report, the government was urged to structurally collect data on hate crime. No progress was made concerning this action point, although the Action Plan adopted in May 2016 provides concrete steps to be undertaken in order to establish a national data collection source for hate motivated crimes and incidents and hate speech.

In the coming year, the government should be urged to take action against domestic and public violence against LGBT persons, and against hate and discriminatory speech in the



media. Education and health care professionals should be trained on LGBT issues and on how to deal with violence against LGBT persons.

### **Hate and discriminatory speech in the media**

ProLGBT and “Historia Ime” ([www.historia-ime.com](http://www.historia-ime.com)) monitored seven online versions of mainstream media (daily newspapers and news agencies) in the period October-December 2015. From a total of 750 articles monitored, 208 included hate and discriminatory speech against women, LGBT persons and the Roma Community. The transgender community turned out to be the group most often targeted for hate speech.

### **Domestic violence**

Domestic violence remains an issue for the LGBTI community. Cases of domestic violence are very common. In 2015, 15 cases of domestic violence were reported to Aleanca, mostly involving psychological violence from parents who felt that their child might be gay or lesbian. In six cases, members of the community reported that they had experienced physical violence because their family had found out they were LGBT. Aleanca has supported victims of such violence, either through providing psychological support or by providing shelter at STREHA. In several cases, Aleanca also collaborated with other NGOs that operate in Albania.

In general, reports from community members to Aleanca indicate that people who experience violence in public are usually young men aged 17 to 35 years. Almost all violence in public is targeted towards men who are more stereotypically gay and towards trans people. Lesbians face discrimination in public only when their sexual orientation or gender identity is more visible. Most face verbal violence, but physical violence is also common. Trans women primarily face physical violence because a large percentage of them are also sex workers.

### **Situation on LBT and violence against women**

Aleanca LGBT, supported by UN Women, completed the first study with a focus on LBT community and violence against women<sup>1</sup> in 2015. It reveals that: “LBT individuals face prejudice, discrimination and abuse when they access health and educational institutions”. The study raises the need for capacity building and awareness-raising among service providers in health and educational institutions. The situation of LBT women in particular is worse as they are subject to discrimination and violence due to their gender and sexual orientation. The study was conducted in the regions of Tirana, Shkodra, Elbasan, Peshkopi and Vlora with the support of women's organisations. The study and face-to-face interviews with public servants focused on the education system and the health care system.

The findings in this research indicate that LBT individuals face prejudice, discrimination and verbal, psychological and physical abuse when they access these two institutions. This constitutes a serious obstacle for LBT individuals who are abused, or are at high

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1 <http://historia-ime.com/2015/12/19/the-first-study-with-a-focus-on-lbt-community-on-violence-against-women/>



risks of being abused because of their sexual orientation and gender identity, and need assistance from health and educational institutions. The data indicates that a lot of work needs to be done to make health and educational institutions accessible to LBT women when they face violence. With respect to health, there is a need to inform doctors and nurses on LBT related violence. As was shown in this report, the overwhelming majority of them have little or no information on violence and abuse against LBT. Moreover, with few exceptions, none of the doctors and nurses had taken any training on LBT related violence.

### **Training of police**

From 2014 on, ProLGBT (in 2015 together with Aleanca) has been training police officers in Tirana; all chiefs of all six police stations in Tirana and 20 to 30 policemen and policewomen per police station, plus 30 police from the elite forces The Eagles. The organisations believe that the police in Tirana have definitely become more professional, but there is no data available on the situation outside Tirana. The signs are mixed: there is great sporadic collaboration in some southern municipalities, but also a report of a transphobic incident with the police in Shkodra, a northern city in early 2016. Police officers there harassed a group of LGBTI activists, and one transgender woman in particular.

In general the impression of police collaboration is positive, but it is important that newly trained police officers also receive LGBT awareness training in their education. Also, it remains doubtful that the police have proper internal protocols to deal with hate crimes, even though hate crimes are now addressed by the Penal Code.

### **Freedom of assembly, association and expression**

Freedom of assembly, association and expression for LGBTI people was largely upheld in Albania in the reporting period. At least 180 activists, community members and allies took part in the Pride bike ride, the Tirana Gay (P)Ride 2016, on the International Day Against Homophobia and Transphobia (IDAHOT). No incidents were reported.

### **Equality and non-discrimination**

In the 2015 progress report, the government was urged to take action on the following points:

- More outreach and a more proactive approach by the Commissioner for Protection against Discrimination
- Further development of anti-discrimination case law and improvement of implementation
- Implementation of the resolution on the rights and freedoms of persons belonging to the LGBTI community; implementation of the action plan, legislative amendments and other measures in support of LGBTI persons

Some progress was made on these action points. The action plan was drafted, but it is still in the process of being adopted. While the mandate of the Commissioner for Protection against Discrimination ended in 2015, no move was made to replace her with



a more pro-active Commissioner. There have been no developments regarding anti-discrimination case law.

In the coming year, the government should be urged to ensure implementation of the action plan 2016-2020 without delay, with a focus especially on:

- Improving the collaboration between the government and civil society organisations in raising public awareness of LGBTI rights.
- Including mechanisms for budgeting, indicators of achievement, monitoring and reporting.
- Professionalising and improving the performance of the National Implementation Coordinating Group (NICG)
- Appointing Focal Points on LGBTI equality from all relevant government departments

Also, the government should be urged to replace the Commissioner for Protection against Discrimination and to stimulate reporting of and pro-active proper handling of cases of discrimination against LGBTI persons, particularly in the labour market, education and health care.

### **Discrimination**

Regarding discrimination in different spheres, Alliance LGBT has found discrimination in workplaces, in accessing health care and in education.

### **Labour market**

Forty-three cases of discrimination in workplaces and/or discrimination in job recruitment and selection were reported to Aleanca LGBT. These are cases of LGBTI people having difficulties in finding work because of stigma and prejudice, experiencing sexual harassment based on sexual orientation and gender identity during job interviews, or being fired because the employer has found out about the employee's sexual orientation or gender identity. Only one case was reported to the authorities.

For the first time in this period, the Head-hunter group, a human resources company in Albania, launched and implemented the LGBTIQ Employment Equality Index, the first non-EU country to have such a system in the Balkans. The index is a ranking system that determines how well companies respect the rights and dignity of LGBTIQ persons in their hiring, training, development and general employment practices. The Albanian government is encouraged to support this index by promoting it, and to have state owned companies be part of the Equality Index.

### **Education**

Ten members of the community reported 38 incidents of discrimination in schools. None of these incidents were reported to the authorities. Bullying in schools remains a major problem for young LGBTI people. Two of these 10 young LGBTI people have left school, due to discrimination and bullying from peers and teachers. The remaining eight LGBTI people were hiding their sexual orientation or gender identity in order to stay in school, but they expressed concern that if they came out at school their peers would bully them and subject them to physical and psychological violence.



## **Health care**

Alliance LGBT has had thirteen cases of discrimination with regards to accessing health care. In one case a member of the community was not able to access necessary health services without being accompanied by a representative from Alliance LGBT. In another case a gay man reported that he had never accessed the healthcare system because everyone knew his sexual orientation in the city where he lived. In the other cases, LGBTI people reported being discriminated against and that they felt that the doctors prejudged them.

## **Housing**

In recent years there has been a rise in the number of LGBT youth who have problems with housing. This is a result of a few factors: coming out to the family, harsh living conditions in discriminatory and aggressive communities (especially in small cities), inability to find a job, or inability to rent a house as a result of discrimination because of sexual orientation or gender identity.

In order to respond to this critical situation for the LGBTI community, Aleanca LGBT and Pro LGBT opened the first residential centre shelter (referred to as “STREHA” or “SHELTER”) for at-risk LGBT youth. This was achieved through a common pilot project with the support of USAID through Assist Impact. SHELTER has a capacity of 8 beds and offers aid and services for homeless LGBTI youth, including services to help with re-integration into their family home or transition to independent living in society. Between December 2014 and November 2015, 45 LGBTI persons requested services at the Shelter. 18 individuals were housed for a total of 1460 nights.

The Shelter has been operating as an independent entity from Alliance LGBT and Pro LGBT since November 2015. The decision to become independent was made for the sake of sustainability and to ensure the continuity and consolidation of shelter services for the LGBT community.

## **Asylum and refugee issues**

The issue of Albanian people seeking asylum in Western countries has also affected the LGBTI community. The number of self-identified LGBTI people seeking an official report from Aleanca and ProLGBT has doubled in 2015, but the actual number of cases supported by these organisations has remained relatively low for several reasons:

- The organisations have limited human resources to deal with asylum seekers;
- The organisations have focused their interventions mostly on educating the LGBTI community regarding the very difficult process of receiving asylum. Since Albania introduced its anti-discrimination law and subsequently received the status of candidate member country in the EU, asylum has become almost impossible for Albanian citizens;
- In most cases the asylum seekers failed to seek the assistance of the organisations before leaving the country. In such cases it is very difficult to prove that the state failed to ensure their safety (thus giving the country enough proof to refuse their request for asylum);



- A number of the requests for help came from people who told the organisations explicitly that they were heterosexual but wanted to ask asylum by claiming they were LGB. These people were turned away.

Despite these difficulties, Aleanca and ProLGBT still managed to help some of the LGBTI community members in their asylum-seeking processes. Aleanca LGBT assisted 8 cases of community members asking for asylum in Sweden, Germany, France and the Netherlands. Until now, the only successful asylum case was that of a lesbian girl, seeking asylum together with her six-months old child. She was thrown out of her house by her family and discriminated continuously by society because of her gender non-conforming look. She managed to get asylum in Sweden. Other individuals were rejected and sent back to Albania or are seeking an appeal through the courts in the respective countries.

In 2015, ProLGBT assisted with the case of the first gay couple seeking asylum in Sweden (A.M and J.C). This is a clear case where state and public institutions, including the police and the Anti-Discrimination Commissioner, failed to ensure their well being and protect their lives.

In 2015, ProLGBT assisted a case involving a young gay individual from Tirana who was threatened by his father and ended up asking for asylum in France together with his mother and younger sister. This case is currently pending.

### **Legal recognition of same-sex couples and debate on Family Code**

*In the coming year, the government should be urged to amend the article that defines cohabitation as between a man and a woman and to raise positive public awareness on this issue.*

Both Aleanca LGBT and ProLGBT managed to raise several public debates on the importance of legal recognition of same sex partners. The Ministry of Social Welfare and Youth started the process of amending one article of the Family Code; Article 163 that defines cohabitation as between a man and a woman. The new proposal of the Ministry was to amend this article and redefine cohabitation as between two adults regardless of their sex. The Ministry of Justice officially blocked this proposal without any clear argument. The Ministry of Social Welfare and Youth did not try to negotiate and the Family Code was not amended.

A group of activists from ProLGBT and Aleanca LGBT founded AFERA (Alliance for Equal Rights in Albania, which is now in the process of being legalised by Tirana's Court). The main goal of this membership-based organisation is to challenge the Family Code, and specifically the article about cohabitation, as unconstitutional, both at Albania's Constitutional Court and Strasbourg Court. This will be the first strategic litigation process in the country.



## **Rights and equal treatment of trans and intersex persons**

In the 2015 progress report, the government was urged to remove discrimination against trans and intersex persons from legislation. No progress was made on this action point.

In the coming year, the government should be urged to raise awareness on trans issues and initiate a public debate on trans rights, and to discuss and adopt a law on gender recognition.

During the heated debate on the judiciary reform and amendments of the Constitution, a proposal to include sexual orientation as a ground for protection from discrimination was included by an independent working group of experts, but gender identity was not. Through unofficial channels, ProLGBT managed to raise their concern with the government, the parliament and to the group of experts about this. In the final proposal, gender identity was also included into the article of the Constitution that focuses on discrimination. This proposal was recently passed with no opposition in the Albanian parliament (with votes from both left and right wing parties). This development was the reason to re-activate the debate on same-sex marriages, with some noted conservative opponents expressing their concern that if the Constitution is amended in this way, the entire Family Code becomes unconstitutional.

Trans and intersex rights are not recognised as such by Albanian legislation and government. There is no legal recognition of gender and there are no procedures in place for gender reassignment or change of legal documents. The only provisions are those in the law for protection from discrimination, which recognise gender identity as protection ground, but then there is no definition of gender identity in Albanian legislation. Due to this legal vacuum, trans rights have also been largely omitted from the 2016-2020 draft Action Plan and very few activities are trans specific. There is no protection against discrimination/hate crime on the ground of sex characteristics to protect intersex people at all.

## **Public awareness and attitudes**

In the 2015 progress report, the government was urged to increase public awareness. Some progress was made on this action point, which should be reiterated for the coming year.

An opinion poll carried out by US-based National Democratic Institute, revealed that 65% of LGBTI people surveyed in Albania have been personally discriminated against because of their sexual orientation or gender identity.

The survey also found out that 42% of the general public would try to find a cure if they found out their son or daughter were homosexual. 58% said they would not vote for a political party that championed the rights of LGBTI people.





76% of LGBTI people surveyed have been verbally harassed or abused because of their sexual orientation or gender identity. The poll also revealed that 32% of the LGBTI people surveyed in Albania had suffered physical violence because of their sexual orientation or gender identity.

The ministry of Social Welfare and Youth organised a screening event of Ska Ndal, the LGBTI documentary, in an event attended by minister Blendi Klosi. In general, however, the public awareness process has been pushed forward only by the LGBTI organisations that have urged the government to do more several times.

### **A supportive and enabling environment for civil society**

The State Agency to support civil society has never awarded a project to any of the LGBTI organisations. At the start of 2015 both Aleanca and ProLGBT applied for a project with the agency that would have enabled the shelter for LGBTI youth to provide the food supplies. The board rejected this project in first instance, but after intensive lobbying from the two organisations the executive branch of the agency decided to provide the shelter with around 90,000 ALL (around 6.500 Euros).

There are mixed experiences in the relationship between authorities and CSOs. There is direct contact with the Ministry of Social Welfare with whom CSOs finalised the action plan, and with the Prime Minister and the Mayor of Tirana, but there is no institutionalized communication with the Parliament.

The Albanian government has increased its cooperation with civil society organisations in particular with regards to consultations. However, cooperation still needs to increase in particular with regards to providing more funding and increasing professional cooperation between the state and non-governmental sector. Hopefully the Action Plan will serve as a clear road map for this.