



Contribution from the Centre for Social Group Development, ILGA-Europe and ERA to Kosovo's Report 2016

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Summary of key developments and trends

Public acceptance of the rights of LGBTI people remained low in Kosovo. A sizable proportion of the population say that they would try to 'cure' their child if they were lesbian or gay, according to an opinion poll (NDI). The increased work of national LGBTI NGOs led to greater exposure for some LGBTI activists, which resulted in online attacks. There were public statements from high government representatives supporting LGBTI rights. The implementation of the first LGBTI Action Plan from the Advisory and Coordination Group, which ended in May, was unsatisfactory. Homophobic statements were found in some textbooks in public and private universities.

On 17 May 2016, a successful march and concert took place celebrating IDAHOT, with no incidents reported. The government was very supportive. High-level politicians attended the march and the Office of Good Governance organised a conference to mark IDAHOT.

Main action points for the coming year

The government should be urged to:

- Rule of law: engage in a dialogue with the police and the prosecutor's office to coordinate efforts to properly investigate cases of hate crimes against LGBTI people. Until now, all of the cases reported to the police from LGBTI persons/activists have not been investigated.
- Review school and university curricula and textbooks to remove homophobic, transphobic and discriminatory statements
- Law reform for transgender and intersex people: adopt legal reforms to secure the right to undergo a sex change, the right to legal gender recognition in documents, protection of the rights of intersex persons and other relevant measures.
- Offer social and psychological protection to LGBTI persons who are evicted from their homes/families.
- Implement the National Strategy against Domestic Violence (which includes an LGBTI component) and implement the Action Plan of the Human Rights Parliamentary Committee in the Assembly of Kosovo.



Bias motivated violence, hate speech, hate crimes

In the 2015 progress report, the government was urged to adequately address cases of verbal and physical assaults against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. No progress was made concerning this action point. In the coming year, this action point should be reiterated.

An LGBTI activist received a death threat after he posted a statement on the situation of LGBTI people on social media during the visit of US Special Envoy Randy Berry in November. The case was reported to the police and was pending at May 2016. Moreover, in the comments section in online portals and online media there is a high presence of hate speech comments.

An opinion poll carried out by the US-based National Democratic Institute (NDI) revealed that 81% of the LGBTI people surveyed in Kosovo had been verbally harassed or abused because of their sexual orientation or gender identity. Also, 29% of the LGBTI people surveyed in Kosovo had suffered physical violence because of their sexual orientation or gender identity.

Freedom of assembly, association and expression

There was a street action organised by three LGBTI organisations in Kosovo in December, marking International Human Rights Day. There were no incidents and protection by police was provided.

For the third year, on the 17th of May, three LGBTI organisations CSGD, CEL and QESh marked International Day Against Homophobia and Transphobia with a march and a concert held in the centre of Pristina. The title of this year's IDAHOT Kosovo was "Our Love is Constitutional". The Government and Parliament of the Republic of Kosovo were called upon to change the anti-constitutional Law of Family and to recognise same sex marriage. This law is in breach of the Constitution of the Republic of Kosovo, under the article 24 "Equality before the Law" and article 37 "Right to Marriage and Family".

The IDAHOT march was attended by Kosovo's President Hashim Thaci, former President Atifete Jahjaga, Vice President of the European Parliament Ulrike Lunacek and many more participants from the government, civil society, international community, etc. The march was followed by a concert with U.S Music Band Mary McBride and a DJ. On the same day, the Government of Kosovo, in the form of the Office of Good Governance, organised a conference to mark IDAHOT. In the night, the Government Building was lit with the colours of the LGBTI rainbow flag as a sign of support for the LGBTI community in Kosovo.

There were no incidents during the march or the concert. The police of Kosovo was present to secure the events. There were however homophobic comments from public figures, including a Member of Parliament Gezim Kelmendi who stated that homosexuality is a disease and destroys the family. After a TV show focusing on

IDAHOT, a representative from civil society received death threats. These cases were reported in the police. Furthermore, hate speech comments were noted in online media.

The opinion poll of NDI revealed that 71% of the LGBTI people surveyed in Kosovo felt that Pride parades have improved the position of the LGBTI community in society.

Equality and non-discrimination

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

- Extend the Kosovo Prosecutorial Council's tracking mechanism to cover cases of all kinds of discrimination, not only those based on ethnicity.
- Spend more resources and invest more political will in implementation of human rights, including at local level
- Get the advisory and coordinating group for the rights of the LGBTI community to produce concrete results.

Some progress was made concerning the first action point, but not on the second and third point.

In the coming year, these action points should be reiterated, with special focus on investing in implementation of human rights, also at the local level, and gaining results from the advisory and coordinating group for the rights of the LGBTI community.

Amendments to the law for protection from discrimination have been approved in June last year. However, there has been no promotion of the rights and legal remedies abided in this law. Moreover, government has not approved additional by-laws and action plans, which would enable the implementation of the law.

Cases of discrimination of LGBTI people are being reported to LGBTI organisations. However, the victims do not want to undertake legal remedies in relevant institutions. Currently three LGBTI organisations have increased their capacities to offer legal counselling.

The opinion poll by NDI revealed that 67% of the LGBTI people surveyed in Kosovo had been personally discriminated against because of their sexual orientation or gender identity.

Legal recognition of same-sex couples

There is no constitutional limitation on marriage. Early in 2016 there was a public statement at an international conference from Acting Minister of Foreign Affairs that the Kosovo Constitution recognises homosexual marriages. LGBTI activists reacted publicly, stating that the law is the main obstacle to same sex marriages, as the family law defines marriage between a man and a woman. It is evident that the law is in violation of article 24 of the constitution that prohibits discrimination based on sexual orientation. However, the family law has not been challenged so far.

Rights and equal treatment of trans and intersex persons

In the coming year, the government should be urged to undertake further legal reforms to secure the right to undergo a sex change, the right to legal gender recognition in documents, protection of the fundamental rights of intersex persons and other relevant measures, and to put an end to unconsented medical treatments against intersex persons.

There were some legislative improvements in May 2015, better protecting transgender and intersex persons from discrimination. However, there are still existing legal barriers in relation to transgender and intersex persons: e.g. the right to legal gender recognition and to bodily integrity.

In the beginning of 2016 it was made public that Kosovo Clinical Centre had undertaken several surgical interventions on intersex persons. The patients were of a very young age and the procedure was not regulated with any legal provision or based on international human rights standards. In line with human rights standards, the government should forbid any medically not necessary interventions on intersex children.

Public awareness and attitudes

In the 2015 progress report, Kosovo's political leaders were urged to raise awareness and promote tolerance. Some progress was made concerning this action point; there were more public statements supporting the LGBTI community from key politicians and figures such as the President, the Minister of Foreign Affairs and the Prime Minister.

In the coming year, the government should be urged to make supportive statements more often and to concretely promote and raise awareness of the new anti-discrimination law.

LGBTI organisations working directly with the community undertook several public awareness campaigns in order to raise social acceptance. Also, an EU twinning project undertook several initiatives. However, there was no governmental initiative to address the public in order to promote tolerance and equality among its citizens.

From June to August, NDI, the U.S. Agency for International Development, the Gay and Lesbian Victory Institute and Civil Rights Defenders carried out opinion polls in the Western Balkans on attitudes towards LGBTI people. The survey combined the results of online questionnaires, focus groups with LGBTI people and face-to-face interviews with the general public. In Kosovo, 41% of the general public said that they would try to help their son or daughter find a cure if they found out that their child was not heterosexual. 60% said they would not vote for a political party that championed the rights of LGBTI people.



A supportive and enabling environment for civil society

Civil society has good cooperation with institutions. However, the public support from state institutions has been present only when foreign representatives would meet them.