

Contribution from Juventas, Queer Montenegro, ILGA-Europe and ERA to Montenegro's Report 2016

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Summary of key developments and trends

Despite successes achieved by Montenegrin CSOs and activities taken by the Government during the previous years, LGBT persons in Montenegro still live in a hostile environment, do not enjoy the same rights as their heterosexual peers, and find themselves in a disadvantaged and unenviable position. The situation as stated in earlier reports¹ by CSOs remains the same: enforcement of newly adopted laws is faced with many challenges and is very often far removed from the level of implementation achieved in EU countries. Monitoring of the implementation of the adopted strategic documents shows that state institutions need additional capacities and support in executing activities defined by the action plan in a proper manner².

Main action points for the coming year

The government should be urged to:

- Establish implementation monitoring mechanisms for the Strategy for the Improvement of LGBT people's Quality of Life, which include CSOs, and ensure that implementation of the Strategy also takes place in the municipalities in the south and north of the country.
- Increase the financial, administrative and human capacities of both the Ministry for Human and Minority Rights and the Institution of the Ombudsman.
- Guarantee freedom of assembly and expression in all municipalities, including Nikšić, and offer adequate protection and public support for LGBT public events.
- Adopt adequate bylaws or a Law on legal gender recognition, as legal gender recognition should be a process without obstacles;
- Launch awareness and information campaigns to address various professionals: medical workers, police officers, prosecutors, judges, journalists, teachers, social workers, youth workers, representatives of political parties, decision-makers and representatives of the institutions that are involved in protecting LGBT rights;

Bias motivated violence, hate speech, hate crimes

¹ Montenegro Report on the implementation of the Council of Europe Committee of Ministers' Recommendation CM/Rec (2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, NGO Juventas, December 2012

² Monitoring of the implementation of the Strategy for improving the quality of LGBT people's lives 2014, NGO Queer Montenegro, February 2015

In the 2015 progress report, the government was urged to continue training for the judiciary and the police, among others to reach progress in police investigations into attacks on LGBTI persons.

In the coming year, the government should be urged to

- Monitor and evaluate the situation, as well as the results of the action undertaken to tackle it. This should be conducted by means of systematic data collection, conforming to the commitments made by Montenegro within international institutions such as the Council of Europe;
- Trainings for judges and prosecutors should be conducted;

LGBT people are regularly victims of violence, which is rarely reported. Documented cases of discrimination, harassment, threats and violence witness differentiated practice by the police, prosecution and judiciary, which furthermore proves that capacities and knowledge need to be built upon.

Following the complaint filed by NGO Queer Montenegro against the Serbian Orthodox Church's priest Jovan Plamenac, on the matter of public hate speech against LGBT persons during orthodox New Year celebration at the main square in Podgorica, Protector of Human Rights and Freedoms of Montenegro has concluded that Plamenac's statements contained elements of hate speech against members of the LGBT community and LGBT human rights defenders.

The Ombudsman issued a recommendation for priest Plamenac to make public apology to the LGBT community within 15 days and to refrain from further hate speech against LGBT persons. The Ombudsman also expressed his opinion that “public hate speech is not and cannot be part of any religious doctrine, nor can religious beliefs or religious communities' values be used as justification for hate speech“. This is the first case of an adequate and direct public reaction of the Ombudsman when speaking about hate speech of church officials/representatives.

Freedom of assembly, association and expression

In the 2015 progress report, the government was urged to:

- Amend the law on public gatherings to clarify definitions and define state obligations, in order to guarantee freedom of assembly and association.
- Guarantee freedom of assembly and expression, also regarding LGBTI gatherings in Nikšić.

In the coming year, the government should be urged to:

- Guarantee the right to peaceful assembly as well as ensure adequate protection to LGBT persons and allies;
- Provide conditions for the safe and peaceful organisation of public events (pride marches, cultural events, etc.) in all municipalities in Montenegro;

- Give clear public support of high Government officials to public events (e.g. public statements or their personal participation in the Pride march).

The Montenegro Pride March 2015 was successfully organised by the NGO Queer Montenegro. The Pride was held with no incidents, significantly fewer police officers were on the streets compared to former years and the route was changed. In 2015 the route included streets with buildings around it for the first time.

Having in mind the fact that 2016 will be a year of parliamentary elections in Montenegro, activities and political support related to the organisation of the Montenegro Pride March 2016 and creation of the Draft Law on registered partnership will be issues of particular interest.

The Pride march due to take place in the city of Nikšić was banned for the 3rd time in September 2015. Right to assemble peacefully should be available to everybody in every city in Montenegro.

Equality and non-discrimination

In the 2015 progress report, the government was urged to:

- Strengthen the overall legislative framework on non-discrimination, notably regarding sanctions, to ensure effective penalties for violations.
- Match progress in the alignment of legislation with an increased institutional capacity, in particular for the fight against discrimination, the prison system and the protection of minorities;
- Fill the vacancies regarding human rights and discrimination in the Ombudsman's department and increase the department's capacity to effectively handle complaints in accordance with its broad mandate
- Introduce an internal review mechanism for complaints to improve the quality of decisions.
- Increase the number of staff of key institutions in charge of human rights policy, including the relevant Ministry, and train existing staff further, particularly on international human rights standards.
- Roll out systematic anti-discrimination campaigns in schools and universities as a matter of urgency.

The Council for protection against discrimination was disbanded in 2016, without the knowledge or any consultation with NGO representatives, or even the Prime Minister's Adviser for Antidiscrimination and Human Rights. The full jurisdiction over the implementation of the Strategy for the improvement of LGBT people's quality of life came to be in the hands of the Ministry of Human and Minority rights.

The process of creation of the Action plan for 2016 started and finished late. The call for proposals of measures was sent beginning of March 2016 and the whole process

finished by the end of the same month. Activities defined by the governmental institutions are not proposing any major innovation.

NGO Juventas and Queer Montenegro participated in creating the new Action plan of the Strategy for the improvement of LGBT people's quality of life, and proposed to the Ministry of Human and Minority rights the introduction of measures that are a part of Juventas and partners' projects and funded by various donors. NGO Juventas has governmental institutions as partners in all activities envisaged in the Action plan.

The most concerning issues in this area include the fact that the Ministry of Human and Minority rights lacks capacities and is understaffed, which will make the strategy implementation and implementation monitoring activities especially challenging to perform. CSOs dealing with LGBT human rights are not familiar with mechanisms the Ministry uses in order to do monitoring and evaluate the quality and effectiveness of the activities implemented. The Ministry is designated to implement but also evaluate activities implemented, so it is not clear how the Ministry will evaluate its own work. Furthermore, the cooperation between the Institution of Ombudsman and the Ministry is not on a satisfying level and it influences the final beneficiaries of all activities undertaken in the field of human rights respect.

Lack of support for necessary services for LGBT people

Although the measure of "Providing adequate support and space for the Counselling Centre for LGBT persons (DROP IN CENTER)" was introduced in the Action plan for 2016, NGO Juventas is concerned that it is not going to be implemented as in 2015 no action was taken by the state authorities either. It is important to note that the Counselling Centre for LGBT persons (DROP IN CENTER) is the only specialized counselling and preventive service for LGBT person in Montenegro. It remained functional in thanks to the voluntary efforts of the organisation, but its long-term sustainability is seriously threatened. The main activities of the Counselling Centre for LGBT persons are directed towards ensuring a safe and supportive environment for LGBT individuals as well as providing wider support, which includes primarily strengthening their capacities. These include: main health concerns related to MSM/T population in Montenegro (concentrated HIV epidemics among MSM population, low level of trust of LGBT persons in medical institutions, low HIV testing rate) promotion of healthy lifestyles through educational group sessions, advisory, consultative and educational services of a doctor, expansion of social network support and empowerment of the LGBT community throughout structured and unstructured activities, web site, groups on social networks, as well as psychosocial support throughout consultative and educational services of a psychologists as well as "peer" counselling services.

Education

Activities implemented in 2015 and the beginning of 2016 in the domain of education included strong cooperation with Ministry of education, the update of "Guidelines for professional services in their work with LGBT adolescents", trainings for professional services (PP services) in high schools (pedagogues and psychologists), consultations in

the south and north of Montenegro as well as the implementation of a qualitative research among these professionals.

The aim of this qualitative research was to understand the situation in which LGBT youth finds itself within the school environment and the presence of homo/bi/transphobic violence from the perspective of professionals who work in PP services in high school, in order to formulate conclusions and create recommendations for future actions that should improve the work high schools' professional services and support LGBT youth and their adequate social inclusion.

In-depth interview was the instrument for data collection. The interviews defined several areas of interest of the research process: assessment of the visibility of LGBT people/identities in local communities/ schools; perception of changes that happened in recent years; professional experience in working with LGBT youth; existence/non-existence of physical, psychological violence when it comes to this group of young people; assessment of the atmosphere in the school when it comes to LGBT identities; perception of the role of schools when it comes to providing a safe environment for all students.

The conclusions drawn from the research and all other implemented activities once again confirmed the following; it is necessary to invest additional efforts in human rights education of students and to invest additional efforts in increasing the capacities and sensitivity of PP services, along with teachers and school management.

Recommendations regarding equality and non-discrimination

Legislation and policy

- Continuous monitoring of harmonization of the Montenegrin legal framework with the needs of LGBT community and international standards should be conducted;
- Strategy implementation monitoring mechanisms should be put in place and functional. It has to include participation of CSOs;
- A system of free legal aid aimed at strengthening LGBT persons to report violence and discrimination should be established.
- The implementation of the Strategy for the Improvement of LGBT people's quality of life should be decentralized and activities should include municipalities in the south and north of the country;

Institutions

- The administrative and human capacities of the Ministry of Human and Minority Rights should be strengthened;
- The administrative and financial capacities of the Institution of the Ombudsman in Montenegro should be strengthened;

Research

- Implement research related to the situation and attitudes LGBT persons encounter in prison and other closed institutions;
- Research in the field of human rights protection, sexuality and gender identity should be promoted and implemented;

Awareness among professionals

- Awareness and information campaigns should be launched to address various professionals: medical workers, police officers, prosecutors, judges, journalists, teachers, social workers, youth workers, representatives of political parties, decision makers, representatives of the institutions that are involved in exercising and protecting LGBT rights;

Health care

- Activities related to the improvement of sexual and reproductive health of LGBT persons should be undertaken;
- Campaigns aiming to sensitise medical professionals in relation to SOGI and unify their attitudes according to internationally recognised and scientifically approved standards should be implemented;
- Providing sustainability for social and health services for LGBT persons should be one of priorities, especially in a situation where the state does not provide specialised interventions and preventive measures in the LGBT community;
- A counselling service for families of LGBT persons should be established;
- Trainings for social workers on sexual orientation and gender identity should be implemented and respective local organisations dealing with LGBT rights enabled to do the same by putting the system of programs' accreditation in function;

Labour market

- Implement activities aiming to sensitize employers in respect to LGBT human rights throughout the promotion of relevant legal solutions and campaigns among the employers;

Education

- Education on human rights, or more specifically sexual orientation and gender identity, should be designed and included in school curricula and programs at all levels of education;
- Trainings for teachers, school psychologists and pedagogues and management in elementary and high schools on sexual orientation and gender identity, as well as domestic and international legislation defining LGBT human rights should be conducted;
- Adopted Guidelines for professional services in their work with LGBT adolescents should be actively promoted in all high schools in Montenegro;

- Anti-bullying Strategy within the Montenegrin educational system should be adopted;
- Monitoring of the implementation of the anti-bullying Strategy within the Montenegrin educational system should be performed.

Housing

- Activities aiming to support emergency housing for LGBT persons experiencing extremely negative relationship with their families in their coming out should be undertaken.

Recognised unions

In the coming year, the government should be urged to:

- Create the Draft Law on Same Sex Partnership;
- Research the attitudes among the general population in respect to LGBT persons' right to private and family life, in order to create adequate and adapted campaigns sensitising the general population for the adoption of respective regulations like the Law on registered partnership.

Rights and equal treatment of trans and intersex persons

In the coming year, the government should be urged to:

- Legal gender recognition should be a process without obstacles. With respect to this, adequate bylaws or a Law on legal gender recognition should be adopted;
- Implement measures, which would recognise trans persons as a less employable category, therefore prevent these persons engaging in illegal activities like sex work due to transphobia and lack of employment possibilities.

Public awareness and attitudes

In the coming year, the government should be urged to:

- Educational and informational campaigns for the general population should be created and implemented with involvement of opinion makers;
- Adequate preparation (e.g. public opinion polls taken into consideration or implemented) should precede educational and informational campaign in order for the same to be more meaningful and efficient;
- Campaigns to decrease homophobia and promote the acceptance of queer identities and culture should be implemented;
- Campaigns for promotion of human rights should be implemented.

Despite the fact that LGBTIQ issues are more visible, additional and continuing activities implemented by human rights CSOs aiming to increase the visibility of LGBTIQ persons, campaigning among specific target audiences, providing solutions for missing laws and bylaws in the area of family and private life are needed to additionally increase opportunities for LGBT citizens.



A supportive and enabling environment for civil society

In the 2015 progress report, the government was urged to improve cooperation between the Ombudsman and LGBTI organisations, as well as cooperation between relevant institutions.

In the coming year, the government should be urged to support NGOs and informal groups that are working on the protection and promotion of the human rights of LGBT people additionally.