



ORGANIZACIJA ZA LEZBEJSKA LJUDSKA PRAVA  
**LABRIS**



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EUROPE  
Equality for lesbian, gay, bisexual,  
trans and intersex people  
in Europe



## **Contribution from Labris, Gayten-LGBT and Da Se Zna to Serbia's country progress report 2016**

*Submitted: 9 May 2016*

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

The vulnerability of trans people in Serbian society was exposed in 2015 when a former army officer was forced to retire when she began to transition. Two explicit hate crimes directed at 4 lesbians and 2 trans persons happened in the reported period without any progress in investigative and legal proceedings. Political support for LGBTI people varied through out the period; hate speech against LGBTI persons is still present in the media, and was also present in both the National Parliament and within the Government. The newly adopted Law on police included gender identity in article 5 and it prohibits discrimination based on this ground. The proposed Law on equality of men and women was withdrawn from the parliamentary procedure after lobbying efforts of women's and LGBTI groups, among other things because it did not include gender identity nor sexual orientation.

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

The government should be urged to:

- Implement the National Strategy (the Action Plan) for prevention and protection from discrimination, to the full extent and in a timely manner;
- Create an effective system for collection of centralized official data on the number of crimes motivated by homophobia and transphobia;
- Ensure proper investigation, prosecution and sanctioning of hate-motivated offences;
- Repeal school textbooks containing discriminatory content.

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

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

- Ensure proper investigation, prosecution and sanctioning of hate-motivated offences;
- Collect centralized official data on the number of crimes motivated by homophobia and transphobia;
- Address concerns about activities of extreme right-wing organisations and violent groups of so-called football fans.

Little or no progress was made concerning these action points.



In the coming year these action points should be reiterated as well as expanded to include increased collaboration between civil society and law enforcement institutions, and especially with prosecutors and the judiciary. Greater efforts should be made in ensuring comprehensive, large scale mandatory educational programs for police officers, prosecutors and judges, in order to increase expert knowledge on implementation of existing legal provisions and to raise awareness of all competent officials at every level of case proceedings, which involve hate speech and/or hate crime based on sexual orientation, gender identity and sex characteristics.

An opinion poll carried out by the National Democratic Institute in 2015 showed that 23% of the LGBTI people surveyed in Serbia had suffered physical violence because of their sexual orientation or gender identity. The same opinion poll revealed that 72% of the LGBTI people surveyed in Serbia had been verbally harassed or abused because of their sexual orientation or gender identity.

### Cases

A man in a café in Belgrade verbally and physically assaulted four lesbian women on 26 September. Three of the women were injured. One of the women attacked, activist and writer Dragoslava Barzut, called the police. Before assistance arrived, another man joined and attempted to harm the women; they hid in the café's toilet until police arrived at the scene. Two of the women were treated in hospital for their injuries. Speaking at a press conference after the attack, Dragoslava Barzut said that she felt a "...moral responsibility to condemn the lesbophobic attack on my friends and me...". A complaint was filed under the country's hate crime legislation. The attack was also publicly condemned by several MEPs. The case is still pending before the state prosecutor's office, with no progress whatsoever.<sup>1</sup>

In October 2015, two trans persons reported to Gayten that they were attacked in a coffee shop in a southern Serbian city, suffering light body injuries. They filed complaints, and despite their statements indicating transphobia as a motive for attack, and medical record, public prosecutor refused to pursue the case, stating light body injuries as the main reason. The persons who were attacked filed a personal complaint, but later withdraw from the further proceeding due to fear for their safety.

In February 17 2016, a man was beaten up by two men in the centre of Belgrade, while he was returning home with his friends from cinema. As reported, the motive of the attack was assumed sexual orientation.<sup>2</sup>

During a parliamentary discussion about the 2009 anti-discrimination law in May, Aleksandar Martinovic MP (Serbian Progressive Party, SNS; centre-right) made several negative remarks about the LGBTI community and affiliated NGOs. Martinovic said that

<sup>1</sup> <http://www.yihr.rs/bhs/drzava-da-privede-i-procesuirao-odgovorne-za-napad-na-lbgt-aktivistkinju-dragoslavu-i-njene-prijateljice/>

<sup>2</sup> <http://www.021.rs/story/Info/Srbija/129148/FOTO-Pretukli-momka-u-centru-Beograda-jer-su-mislili-da-je-gej.html>



while LGBTI people should have legal rights, he could not understand the need for Pride parades and that such events were against moral norms. In September, proceedings against Martinovic were dropped as the MP had been speaking under parliamentary privilege.

On April 16, 17 and 18, 2016, one of the daily newspapers “Srpski telegraf” published a series of homophobic hate speech front-page articles stating that gay persons are sick and that they are spreading AIDS all over Serbia, while misusing available information, spreading false data and promoting intolerance towards LGBTI persons, as well persons living with HIV/AIDS.

### **Reporting and registration**

On 19 November 2015, CSOs Labris and Gayten-LGBT along with the National Democratic Institute launched a new online portal “Da Se Zna” for reporting violence and discrimination against LGBTI people, which has also resulted in the establishment of a new LGBTI CSO focusing on gathering reports of incidents and also to serve as a resource by keeping track of resolved cases, and providing related services to LGBTI persons.

Serbia regularly reports on hate crimes to ODIHR. Serbia’s Criminal Code contains a general penalty-enhancement provision and a substantive offence. The data reported to ODIHR in 2014, published in 2015, also includes cases of incitement to hatred and other hate speech offences. Serbia’s Prosecutor’s Office collects data on hate crime.

Gayten-LGBT and Transgender Europe reported two physical assaults, one carried out by a group against a transgender woman, causing serious injury, and one against a lesbian on a bus, as well as a threat against a transgender woman. The OSCE Mission to Serbia reported a physical assault against a gay man from Germany.

### **Monitoring discrimination and transphobic hate crimes**

Gayten-LGBT was among five organisations participating in the ProTrans project (2014-2015), coordinated by Transgender Europe. Within this project, organisation Gayten-LGBT has created an online monitoring tool for reporting transphobic incidents and a database for systematic recording of those incidents. Besides the online monitoring tool, data was collected through our LGBTIQ help line, individual consultations and support group. During the project, 24 transphobic incidents were reported. The organisation will continue the monitoring activities in the following period.

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

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

- Create conditions for the full exercise of freedom of expression
- Ensure full implementation of the new media laws.
- Fully align the public assembly law with the Constitution.



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Some progress was made concerning action point three, as new legislation on public gatherings was introduced, while freedom of assembly was fully respected. Action points one and two should be reiterated, as little or no progress was made.

The 2015 opinion poll of the National Democratic Institute revealed that 59% of the LGBTI people surveyed in Serbia felt that Pride parades have improved the position of LGBTI community in society, while 87% of the general population would not personally support organizing Pride Parades. 17% of LGBTI people surveyed think that they would be motivated to support a Pride parade if the state authorities guaranteed the security of all of the Pride parade participants.

The Belgrade Pride parade took place on 20 September 2015, with no major incidents reported. This was the second year in a row that the parade happened in a peaceful manner, after several years of threats of violence that caused the event to be cancelled. Riot police closed down the city centre and approximately 1,100 to 1,200 people marched to the Serbian parliament.

On the same day as the Belgrade Pride, in September 2015, the first ever Trans Pride also took place in Belgrade. In addition, Gayten-LGBT organised a first ever trans, intersex and queer conference, in October 2015.

In April 2016, the country's first ever Lesbian March took place.

## **Equality and non-discrimination**

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

- Implement the anti-discrimination framework more effectively, promote and protect the rights of persons belonging to the most vulnerable groups (Roma, LGBTI persons, persons with disabilities, and persons with HIV/AIDS) and minorities.
- Make sustained efforts to ensure effective and consistent implementation of human rights legislation across the country and implement the action plan for the antidiscrimination strategy.
- Further align the anti-discrimination legislation, in particular as regards the scope of exceptions from the principle of equal treatment, the definition of indirect discrimination and the obligation to ensure reasonable accommodation for employees with disabilities.
- Ensure non-discrimination at work, in the health sector and the education system
- Ensure that the office of the Commissioner for the Protection of Equality has adequate premises and its capacity is strengthened.
- Strengthen the role of the Office for Human and Minority Rights
- Repeal school textbooks containing discriminatory content

Little progress was made concerning these action points. Relevant state institutions have promised that school textbooks will be revised in line with legal frameworks for the academic year 2016/2017, however it is yet to be seen if this will indeed be



enforced. Implementation of the anti-discrimination framework is still largely unsatisfactory and alignment of legislation and adoption of bylaws for implementation has not taken place. Discrimination in employment is still widespread.

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

- Adopt and implement bylaws to implement the framework against discrimination
- Fully implement National Anti-discrimination Strategy, and effectively monitor its progress
- To create a comprehensive statistical system that would include data on prevalence and nature of discrimination and violence based on sexual orientation and gender identity.
- To conduct regular monitoring and research about the effectiveness of existing laws, when it comes to sexual orientation and gender identity.
- Ensure non-discrimination at work, in the health sector and the education system
- Create programmes, campaigns and codes of conduct for employers and employees both in private and public sectors, in order to provide working environments free of discrimination based on sexual orientation, gender identity and sex characteristics.
- Repeal school textbooks containing discriminatory content

An opinion poll that was carried out in 2015 by the National Democratic Institute has shown that 51% of the LGBTI people surveyed in Serbia had been personally discriminated against because of their sexual orientation or gender identity. In addition, it was also shown that the areas where discrimination happens the most is employment (24%) and police protection (19%).

Despite an appropriate legal framework against discrimination, laws are not implemented efficiently enough, and one of the reasons is the lack of bylaws or delay in their adoption and entry into force. The lack of sufficiently effective and efficient legal mechanisms against discrimination leads to a small number of processed cases, thereby discouraging the already small number of victims who report cases of discrimination.

### **Implement the action plan for the antidiscrimination strategy**

In 2015 and 2016, Labris initiated the process of monitoring the implementation of the Strategy for prevention and protection from discrimination (2013-18) and the related Action Plan for its implementation (2014-18), which resulted in a shadow report.

The report on monitoring the implementation of the Action Plan for the implementation of the Strategy of prevention and protection against discrimination from 2014 to 2018 includes the fourth quarter 2014 and first quarter of 2015 and is based on questionnaires completed by departmental institutions that carried out certain activities. The institutions responsible for implementation of the envisioned activities did all in their jurisdiction to implement activities, but some of them were just transferring the responsibilities from one to another. Products that were developed



were not accessible to the civil society organisations, while the quality of the activities undertaken by state institutions was not high.

Labris made these recommendations:

### **Civil society**

- *Civil society should be more involved in the processes of monitoring and evaluation of all public policies, including ("mainstreaming") specific problems LGBT people and proposing clear and effective measures to overcome these problems.*
- *Multiple discrimination - the intersection of discrimination on various grounds such as ethnicity, education, disability, sexual orientation and so on - should be one of the all-pervasive themes that are the focus by all civil society organisations, regardless of the primary target group.*

### **National institutions**

- *It is necessary to establish an efficient and sustainable system of monitoring the implementation of strategic documents, enabling independent evaluation of the effects of implemented measures with SMART indicators (quantitative and qualitative) for each social group in particular.*
- *Responsible institutions, which enforce the law and implement strategic documents, must continuously improve the skills of monitoring, implementation and reporting. The manner of reporting on implementation of the public concerned by the relevant institution must be clear, comprehensive and specific by referring to the specific target group with specific activities that were implemented.*
- *National institutions should enable the participation of civil society in creation of public policies at all stages of the process with respect to the direct experience of working with a particular social group.*

### **Local institutions**

- *Establish a binding multi-sectoral cooperation among institutions at local level, with the exchange of good practice and continuous improvement. Existing models of networking - teams for combating violence and others - should be expanded with representatives of LGBT organisations to represent the interests of social groups.*
- *Local institutions must respond more effectively to cases of discrimination and sanction them, thus continuously sending the message that discrimination on all grounds is socially unacceptable behaviour.*
- *Local governments must identify and strategically fight discrimination through preparation of a local strategy or amendment of existing local strategies and through operational and budgeted action plans with measures against discrimination of LGBT people.*

### **Textbooks**

In response to a letter from CSO Labris, the Institute for the Advancement of Education confirmed in August 2015 that all school texts aged 20 years or older would be revised in line with legal frameworks in 2016. The Ministry of Education assured Labris that





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books without discriminatory content related to LGBT people would feature on the 2016/2017 curricula. It is yet to be seen if this will indeed be enforced.

## **Recognised unions**

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

- Ensure that provisions allowing legal recognition of same-sex partnerships are included in the new Civil Code
- Take concrete steps towards adopting a comprehensive same-sex partnership law

Same-sex couples are completely invisible in the Serbian legislation and other measures. Problems and situations faced by same-sex couples are ignored by the state as though same-sex couples do not exist, leaving such couples in a discriminatory position compared to different-sex couples (both married and unmarried) in respect to social security, health insurance, pension, inheritance, parenting, etc.

As far back as 2010, LGBTI CSO Labris has initiated discussions about legal recognition of same-sex unions and a draft law has been made and proposed to relevant state institutions, however no progress in regards to activities of the state has been made so far.

Even though activities and measures around legal recognition of same-sex unions have been included in the state Action Plan for the implementation of the Strategy of Prevention and Protection Against Discrimination (2014 to 2018), relevant competent bodies have failed to implement necessary steps toward legal recognition of same-sex unions.

In the draft Civil Code, which is currently in the process of public debate, same-sex unions are only mentioned in a footnote, which suggests that this issue should be discussed further, while taking into account different opinions, attitudes and arguments. Excluding same-sex unions from the draft text of the Civil Code is indicative of the state's reluctance to regulate this issue.

An opinion poll that was carried out in 2015 by the National Democratic Institute has shown that 89% of the general population in Serbia finds same-sex marriage unacceptable. However, when it comes to rights arising from registered partnerships, (such as property, inheritance, visiting rights in hospitals, rights to social security and unemployment benefits, etc.) an average of 35% of the general public has a more favourable opinion.

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

In the 2015 progress report, the government was urged to introduce procedures for legal gender recognition. No progress was made concerning this action point.



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

- To adopt legislation that would regulate gender reassignment processes and legal recognition, as well as legal regulation of medical aspects of the gender reassignment processes.
- To build intersex anti-discrimination legislation in addition to other grounds, and to ensure the provision of all human rights and citizenship rights to intersex persons.
- To end non-consensual sterilisation of trans and intersex persons.
- To ensure that all professionals and state officers that have a role to play in trans and intersex person's wellbeing are adequately trained to provide quality services and that relevant protocols of procedure are in place.
- To introduce continuous trainings and other educational programs about sexual orientation, gender identity and sex characteristics for employees of the Ministry for Internal Affairs, prosecutors and judges.

Even though gender reassignment is allowed, it is completely unregulated by law, making legal recognition of the change highly variable, uncertain, depending on arbitrary decisions and variable procedures by relevant officials, which often take a great deal of time and involve different kinds of humiliation and abuse.

The rights of trans persons are particularly violated in the area of employment, as there are no state measures to protect them, coupled with extremely inefficient processes of legal recognition and change of documents, which can last up to a year, during which time the person cannot find employment and is at high risk of poverty and homelessness.

Very comprehensive Gender identity Law was prepared by LGBTI CSO Gayten in 2013 and introduced to the relevant state institutions, urging them to adopt the law, however no progress has been made so far.

In 2016, Gayten has initiated different activities regarding the position of intersex persons, and first dialogues with medical professionals have started, which will be followed by discussions with relevant state institutions, both at the national and local levels, with the main aim to change the procedure according to which immediate registration of a new born child as male or female is needed, so as to bring an end to unnecessary, detrimental and non-consensual medical practices such as genital surgeries, psychological and other medical treatments, which are denying intersex persons rights to their own bodily integrity, physical autonomy and self-determination.





## **Public awareness and attitudes**

In the 2015 progress report, the government was urged to show greater political commitment to promoting a culture of respect for LGBTI persons. Little or no progress has been made in this regard.

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

- To conduct regular and large scale media campaigns to end homophobia and transphobia in the Serbian society.
- To conduct regular research about levels of acceptance / hostility towards LGBTI persons.
- To end homophobic and transphobic hate speech made by state representatives
- To show public commitment to promoting a culture of respect for LGBTI persons
- To ensure participation of high-level state representatives at Pride events

Even though the anti-discrimination legislative framework of the Republic of Serbia is well developed, implementation of such laws remains largely unsatisfactory, and the gap between legislation and the lived realities of LGBTI persons is wide.

Homophobia and transphobia still persist at worrisome levels. Levels of knowledge and awareness of the general public about LGBTI identities are very low.

The opinion poll that was carried out in 2015 by the National Democratic Institute on attitudes towards LGBTI persons has shown that 48% of the general public said that they would try to help their children find a cure if they found out that their child was not heterosexual, while 12% condone physical punishment of LGBTI persons, while 20% of the general population think that homosexuals are no different than criminals, and should be severely punished. 66% of the general population still think that homosexuality is an illness, while 78% that homosexual persons should only exhibit their sexuality within their home. In addition, 64% said that they would not vote for a political party that would aim to improve the position of LGBTI persons. Only 7% of the general population know what LGBTI identities are.

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

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

- Enable greater involvement of LGBTI CSOs in the processes of developing, implementing and monitoring and evaluation of all public policies, including ("mainstreaming") specific problems and needs of LGBTI persons;
- Secure and make available adequate resources for supporting financial sustainability of LGBTI CSOs.

Cooperation between LGBTI CSOs and state authorities remains low, in many respects. LGBTI CSOs are either not involved and consulted in the policy related processes at all,



or are only included in later stages, with no meaningful opportunities for influencing policy change. Availability of state funding for LGBTI CSOs remains at a symbolic level, and has no impact on the improvement of financial sustainability of LGBTI CSOs, which particularly affects those organisations providing legal, psychological and social services to LGBTI persons in need, which are not adequately provided by the state.