

ILGA-Europe's written submission to the European Commission's 2013 Progress Report on Albania¹

Brussels, May 17, 2013

Reporting period: October 2012-April 2013

A summary of key developments and trends

During this reporting period Albania continued to make progress at the institutional level towards greater recognition and protection of LGBTI people. This was clearly demonstrated through amongst others: (i) the Albanian Parliament's adoption of the amendments to the Criminal Code to include definitions of hate speech and hate crime and a bias motive of the crime, including on the basis of sexual orientation and gender identity as an aggravating circumstance, following the Ombudsman's Special Report and recommendations; (ii) the Ministry of Labour, Social Affairs and Equal Opportunities' drafting of a National Activity Plan towards the promotion of greater LGBT equality; and (iii) high level political support for LGBTI issues and the movement, including a meeting of Albanian Prime Minister, Sali Berisha with LGBT activists. At the same time, homophobia and transphobia remain widespread, and unfortunately at times fuelled by public officials, as was the case with the Deputy Defence Minister's call for violence against LGBT people and the Justice Minister's homophobic remarks. In this context, the level of social stigma remains high, including among young people who harbour high levels of negative attitudes.

Bias motivated speech

- Deputy Defence Minister Ekrem Spahiu stated in 2012 prior to IDAHO events that "they [LGBTI people] should be beaten with a wooden stick", thus endorsing violence against people participating in the Festival of Diversity. In March 2013, Minister Spahia, was quoted in *Shqip Daily* saying "We [his party] are for a family [...] where members are as God intended them to be: men as men and women as women" and referred to same sex relationships as immoral and perverse.
- In March 2013, in the same *Shqip Daily*, a well-known publicist, writer and researcher Artan Lame -when discussing pedophilia cases and pointing to the state's responsibility to protect children - called LGBT persons as 'born deviants, perverts' implicitly making parallels between homosexuality and pedophilia.
- In April 2013, Islamic Association "Albanian Muslim Forum" in an open letter to the Parliament called for the criminalization of homosexuality and condemned the work done by institutions such as the Ombudsman for protection of the human rights of LGBTI people.
- In April 2013, the Minister of Justice Eduard Halimi 'warned' one of the deputies not to 'mess with the Ombudsman as he is the supporter of faggots' during the parliamentary hearing on the review of the criminal code to include hate crime and hate speech definitions following the recommendations by the Ombudsman.

Bias motivated violence

- In 2012, the Ombudsman issued a *Special Report on the situation of the LGBT community* and recommended to Parliament to review the Criminal Code and include definitions of hate

speech and hate crime. He also recommended the introduction of a bias motive of the crime, including on the basis of sexual orientation, as an aggravating circumstance. In April 2013, the Ombudsman presented his proposals at the Commission of Laws of the Albanian Parliament. The proposal has been voted on by the Albanian Parliament in May 2013.

- During the reporting period LGBT organisations have documented 13 cases of violence against LGBT people. In one case, in October 2012, after the peaceful protest before the Embassy of FYR Macedonia to oppose violence against LGBT activists in FYR Macedonia, the activists gathered in a café where a young man known for his previous attempts to prevent LGBT community rallies in Tirana approached them attacking verbally with denigrating words, splitting and threatening to kill. The perpetrator was taken to the police station but was released in some hours on the ground that they could prosecute only in the instances of physical assault. In December 2012, a young gay man was subjected to continuous harassment and intimidation by a group of young man who saw him kissing his boyfriend in a park. The perpetrators threaten the victim with gun and asked to undress, filmed him nude with mobile phones, followed him home to identify his home address. They have waited for him a number of times at his home entrance, pushing him on the ground and threatening to harm. With the advice of the LGBT organisation to which the victim has applied to, he reported the case to the police and to the Commissioner against Discrimination. The police didn't take measures on the basis that the perpetrators are unknown to the victim and cannot be identified. No measures were taken by the Commissioner for the same reasons. Out of 13, 3 were cases of violence against trans people. In one case, a trans woman reported that she, together with her 2 trans friends, has been physically and verbally attacked by a group of 4 young men and women. According to the testimonies of the victims the police arriving to the scene didn't take note of their complaints.

Equality and non-discrimination

- The Ministry of Labour, Social Affairs and Equal Opportunities, with participation of LGBT organisations, drafted a plan with measures to tackle discrimination on the basis of sexual orientation and gender identity. LGBT organisations participated in the meetings and roundtables and provided a training course for public administration on the rights of LGBT people.
- The Ombudsman has signed collaboration agreements with LGBT organisations regarding the following areas: (i) exchange of information; (ii) preparation of studies and special reports on Albanian legislation and its implementation; (iii) analysis of draft legislation prepared by the Parliament; (iv) undertaking common initiatives for the improvement of human rights; (v) treatment of specific cases of discrimination by the public administration; and (vi) the raising of awareness on LGBT rights among the general public.
- In his *Special Report on the situation of the LGBT community*, the Ombudsperson recommended that the Ministry of Education and Sciences: (i) includes information on LGBT issues in school curricula and education programs; and (ii) trains academic staff on LGBT issues. These recommendations aim at the creation of a safe education environment and to fight discrimination in schools.

- Following his *Special Report on the situation of the LGBT community*, the Ombudsperson recommended changes to the *Labour Code* through: (i) the inclusion of sexual orientation as a ground of discrimination in the workplace; and (ii) to addition of a paragraph on the burden of proof in accordance to the EU Employment Framework Directive (Directive 2000/78/EC). The Ministry of Labour has agreed to make these changes and a proposal was sent to the Parliament.
- In December 2012, the Commissioner for Protection from Discrimination issued a positive decision on a complaint by PINK Embassy/LGBT Pro Albania with regards to discriminatory texts in university textbooks of the Faculty of Medicine and Law. The Commissioner concluded that the content of the book *Legal Medicine* discriminates against LGB people and recommended that the text of the book is modified or the book is removed from the market and libraries.
- During the reporting period, LGBT organisations have documented 2 cases of discrimination and bullying at school based on the sexual orientation of the students and 1 discrimination case in access to housing when a young gay man was forced to leave the rented apartment when the owner found out about his sexual orientation. No administrative measures were taken in any of the cases.

Freedom of assembly

- In October 2012, LGBT organisations held a demonstration in front of the Embassy of FYR Macedonia in Tirana, condemning violence against LGBT activists in FYR Macedonia. The police secured the safety of the participants.
- Preparations are made by LGBT organisations for Tirana Pride to be held on 21 September 2013.
- A number of public events are also planned to mark the International Day Against Homophobia (IDAHO) on 17 May, 2013.

Police and law enforcement

- A number of trainings have been organized with the State Police, by LGBT organisations and OSCE. In December 2012, for example, Aleanca in cooperation with State Police organised a training session for fifteen heads of sectors and specialists aiming to raise their awareness on LGBT issues and on the existing legal framework protecting the rights of LGBT people.
- In December 2012, two LGBT activists were harassed by a group of six young men in a bar. The activists repeatedly called the police which arrived 2 hours later and drunk while in duty. They started to offend the activists and didn't take their statements. LGBT activists complained about the police behavior to the Police Directorate. No disciplinary measures were taken by the directorate following the complaint.
- In December 2012, in a case of a young gay man who was continually subjected to harassment and violence by a group of perpetrators (a case described above) the victim called the police as he was being attacked and threatened by the group but the police failed to show up. When he went to the police station to report the violence against him and seek protection he was asked to come some other time as the inspector was on holiday.

Public opinion

- A study *Albanian Youth 2011: Between trust in the future and doubts for the present* conducted during the period September-November 2011 and published in 2012 with the support Friedrich Ebert (FES) revealed that Albanian youth have strong prejudices against LGBT people. 50% of respondents would not welcome being neighbours with a homosexual couple and would feel bad or very bad about it.
- The results of a study by the European Social Survey (ESS) in March 2013, suggest that Albania has the most homophobic society of all countries included in the survey with 53% of Albanians believing that "gays and lesbians should not be free to live life as they wish". The survey took place in 30 countries and was designed by City University in London.

¹ This submission gives a snapshot of human rights situation of LGBTI people in the country and follows a structure and approach similar to ILGA-Europe's Annual Review 2013. It is based on continuous monitoring of the country situation, collection and analysis of first-hand information from LGBTI human rights defenders and country experts.