

# ILGA-Europe's written submission to the European Commission's 2013 Progress Report on Serbia<sup>1</sup>

Brussels, May 17, 2013

Reporting period: October 2012-April 2013

## **A summary of key developments and trends**

Despite some improvements, the situation remains difficult. The right to freedom of assembly of LGBTI people was violated in October 2012 as the Belgrade Pride was banned by authorities. The risk of physical attacks and threats against members of the LGBTI community also continued to be high. At the same time, (i) the law on amendments and addenda of the Criminal Code was adopted by legislators in December and it now treats the homophobic and/or transphobic motive of the crime as an aggravating feature; (ii) the government started working on a National Strategy against discrimination; and (iii) a discussion on the rights of trans people has started.

## **Bias motivated violence**

- In 2012, Lawyers' Committee for Human Rights (YUCOM) and Gay Straight Alliance (GSA) presented state institutions with an initiative to introduce a definition of hate crime (inclusive of the grounds of sexual orientation and gender identity amongst others) in the Criminal Code, and addenda to certain articles of the Code under which the motive of hatred would be regarded as an aggravating circumstance, increasing the punishment for such acts. The law on amendments and addenda of the Criminal Code was adopted by legislators in December 2012 and it treats the homophobic and/or transphobic motive of the crime as an aggravating feature.
- ILGA-Europe has collected information on three homophobic and one lesbophobic physical assaults perpetrated in 2012. In one case which took place in November 2012, the victim, who is an LGBT activist, was brutally beaten up by 3 young men. The perpetrators attacked him near his home, verbally insulting him while beating him brutally. The victim suffered severe injuries. He first received threats of violence on his mobile phone in May 2012, which he reported to the police and was told that the police cannot take any measures on threats, only when actual violence happens. After the attack, the victim reported it to the police who, according to the victim, failed to make a written statement based on his testimony. The case is still under investigation.

## **Equality and non-discrimination**

- The Ministry of Human and Minority Rights, Public Administration and Local Self-Government have started to draft a *National Strategy to tackle discrimination*. An open invitation was sent to civil society organisations, including LGBT organisations, to take part in the process. Five LGBT organisations have responded to the call and are included in the process of the drafting of the strategy.
- In October 2012, following the Rights of Trans persons – From Non-Existence to Creation of Legal Framework roundtable organised by Gayten-LGBT with the support of the Republic

Ombudsman Office and Coalition against Discrimination with relevant state institutions and other international and national stakeholders, Serbian Ministry of Justice and State Administration published a draft law to regulate gender identity change which stipulated that trans person needed a court permission as a prerequisite for them to be able to start their transition process. Gayten-LGBT found the draft law proposed by the Ministry to be discriminatory and unconstitutional as it stipulates that trans people should seek court permission before undergoing gender reassignment and change of personal documents. In May, Gayten-LGBT with Coalition Against Discrimination proposed a Model Law on Legal Recognition of Gender Identity and have expressed their disapproval of the proposed draft by the government. As a result, the government has withdrawn the draft.

- In January 2013, the Court of Appeals in city of Novi Sad issued its final verdict confirming that M.A. has been discriminated based on his sexual orientation at the workplace in a private company in Vršac. This is the first final verdict in Serbia on the basis of the Anti-Discrimination Law on sexual orientation discrimination at the workplace.
- Although the Commissioner for Protection of Equality is quick to react to the cases of discrimination and violence against LGBT people, her decisions and recommendations are rarely followed up and acted upon. The institution hence remains very weak often failing in its role to provide protection to the victims of discrimination.

### **Freedom of assembly**

- Belgrade Pride 2012 with a theme Love, faith, hope was planned to be a festival week with different events concluding with a Pride March on 6 October. While the Pride festival could take place, the Pride Parade itself was banned by the Serbian authorities. On 3 October, the Interior Ministry announced the ban of the Pride March and all other public gatherings on the same date. The ban was condemned by the UN High Commissioner for Human Rights Navi Pillay, the Secretary General of the Council of Europe Thorbjørn Jagland, EU Enlargement Commissioner Štefan Füle and many other high level officials. National and international human rights organisations have also reacted to the ban calling on Serbian government to respect its international human rights obligations and ensure freedom of assembly for LGBTI people. In response to the international criticism, Serbian Prime Minister and Minister of Interior, Ivica Dacic stated “we do not need the EU if the Pride parade is the ticket for EU accession”.
- Belgrade Pride 2013 is planned to be a week of events taking place between 20 and 29 September starting with an International Conference on Freedom of Assembly for LGBT people and concluding with a Pride March planned on 28 September.

### **Freedom of expression**

- Prior to the ban of the Belgrade Pride March, Serbian Orthodox Patriarch Irinej called for the ban of the pride march and of a photo exhibit by Swedish artist Elisabeth Ohlson Wallin, which shows Jesus Christ dressed in women's clothing, finding it ‘deeply insulting’.
- Right-wing movement *Dveri* (which has registered as a political party) has filed charges against the organisers of the above mentioned photo exhibit for ‘inciting national, racial and religious hatred and intolerance’. The movement believes that the manifestation is aimed against traditional religions and religious communities.

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<sup>1</sup> 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.