

ILGA-Europe's submission to the European Commission's 2012 Progress Report on BiH

Brussels, May 11, 2012

Political criteria

Human rights and the protection of minorities	
Freedom of assembly and association	<p>The law provides for freedom of assembly and association.</p> <p>No Pride march has ever been organised in BiH.</p> <p>There are currently a number of registered LGBT groups in BiH who formed an informal network organising activities and ensuring information sharing between the network's members.</p>
Negative media portrayal	<p>In October 2011, SAFF magazine published an article called <i>The Magistrate of Gayness Promoted in Sarajevo: 44 Debauchery Experts</i> about students who had graduated with Masters Degrees from the Gender Studies programme of the University of Sarajevo. Amongst other things the author wrote "[...] Thus, in Sarajevo, 44 gayness experts acquired the vocation of Master, so we can only imagine how many more graduated gays, which will become the army for the rearrangement of our natural order and tradition, will these 44 produce." The Press Council found a drastic breach of ethical professional standards under the Press Code, specifically on grounds of decency, respect for human rights, discrimination, incitement, gender equality and respect of individuality.</p> <p>In March 2012, daily newspaper <i>Dnevni Avaz</i> - the largest and the most influential daily newspaper in BiH-published an article called <i>How many homosexuals there are in B&H?</i>. In the article they use the term <i>homosexuality</i> and exclusively quote religious leaders and a representative from Ministry for Human Rights and Refugees who stated that the potential public gatherings of LGBT people "shall not interfere with or disrupt the human rights of others'. No civil society representative from mainstream human rights organisations or LGBT organisations has been quoted in the article. The same newspaper has extensively reported during Queer Sarajevo Festival in 2008 and was largely responsible for fuelling the situation which escalated to violence.</p>

<p>Hate crime</p>	<p>The Criminal Code of BiH does not contain any general provisions that expressly enable the homophobic and transphobic motives of the offenders to be taken into account by the courts as an aggravating circumstance when sentencing. While it enhanced penalties in case of murder, if the murder is committed on “racial, national or religious grounds”, sexual orientation is not included as a bias ground.</p> <p>There is no official data on bias motivated crimes against LGBTI people in BiH. LGBTI activists know of a few cases when LGBT individuals suffered homophobic violence but most cases of violence against LGBT people in BiH remain unreported.</p> <p>LGBTI activists fear that with the increased visibility of the community they will be targeted for such crimes.</p>
<p>Equality and non-discrimination</p>	<p>A comprehensive anti-discrimination law has been adopted in July 2009. In 2003 the Law on Gender Equality has been adopted. Both laws refer to sexual orientation, and to some extent to gender identity, as prohibited grounds of discrimination. However, as noted by LGBTI activists ‘these laws are not a fruit of social awareness on necessity to protect minority and vulnerable groups but are rather an obligation which the state had to fulfil in the context of its road towards European Integration’.</p> <p>The institutions responsible to enforce those laws- Agency for Gender Equality; the Ombudsman of Human Rights of BiH- are not adequately sensitized on LGBTI issues. The awareness among general public on legal protection from discrimination is very low and no measures are taken by the authorities to educate public, professional groups and other stakeholders on the protections provided by those laws. In addition, other laws in BiH are not harmonized with the anti-discrimination and gender equality laws.</p> <p>The law and practice of voluntary blood donation, for example, is discriminatory against LGB people and the attempts of LGBTI activists to address it are met with aggression and threats of violence.</p> <p>In April 2012, voluntary blood donation drive was organised by the Institute for Transfusion Medicine of FBiH to the Faculty of Philosophy of the University of Sarajevo. Lamija Topcagic, a</p>

	student and an LGBTI human rights defender together with other students openly spoke against the discriminatory law and practice of voluntary blood donation in BiH. In response, the librarian of the University threatened to kill her using derogatory words. ¹
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¹ <http://www.queer.ba/?q=en/content/colorful-network-bih-homophobia-public-institutions-has-stop>