



## ILGA-Europe's Review of the Human Rights Situation of LGBTI people in FYR Macedonia Contribution to the 2015 EC Progress Report

*In cooperation with the National Network against Homophobia and Transphobia (NNHT)\* and based on ILGA-Europe's 2015 Annual review*

Reporting period: October 2014-May 2015

### A summary of key developments and trends

State-sponsored and media-proliferated homophobic rhetoric, as well as structural violence against LGBTI people continue to show a worrying, increasing trend in FYR Macedonia. Institutions and laws preventing discrimination still exclude sexual orientation and gender identity from their scope. Police forces and the judiciary both continue to display active indifference to hate speech and hate crime. Trans people continue to be invisible in laws and institutions. The government proposed amendments to the Constitution, specifying that marriage is strictly a union between a man and a woman and that any future family-related legislation (including registered partnerships) would require a two-thirds majority in parliament. Finally, the overall political situation has deteriorated in the past few months making the state institutions that have the mandate to protect the rights of the LGBTI people fully illegitimate and non-functioning.

### Bias motivated speech

- In September 2014, the largest and most viewed TV station in FYR Macedonia, SITEL TV, published a story titled *Gay students in Macedonia are spreading AIDS* citing the results of a research focused on gay men and MSM. This report was published in the period when the discriminatory amendment 33 to the Constitution [see **Equality and**

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\* *The National Network against Homophobia and Transphobia (NNHT)* is a network of five organisations working on the human rights of LGBTI people in Macedonia since January 2014

**non-discrimination]** was being debated and added fuel to the existing hate rhetoric targeting LGBTI community.

- During their advocacy and campaigning work against the Amendment 33 to the Constitution, the National Network against Homophobia and Transphobia gave interviews to local TV and radio stations. However, the number of local media stations allowing for such interviews were limited and one station went as far as to officially reply the following to the request of the network: “You know, you are reversed (as in not normal), but we will allow you to speak on our TV if you speak in the direction of the Government’s (rhetoric)”.
- Numerous hateful comments emerged on social media following the attack on café Damar in October 2014 (see **Bias-motivated violence**). One of the two public figures who posted the initial hateful comments justified the attack using derogatory and insightful language. The Public Prosecutor dismissed the charges submitted by several NGOs, claiming that these acts did not constitute a crime and the comments of the mentioned figure were not derogatory. The NGOs have submitted a complaint against those decisions and are awaiting answer. The announcement of an event in Tetovo in November 2014 (see **Freedom of assembly**) attracted similar comments, with some social media users expressing the wish that LGBTI people would “die from AIDS”, and issuing death threats to organisers and their families. LGBT United Tetovo documented 147 hateful messages and threats.
- In February 2015, the online edition of the magazine *Republika* published a derogatory news article about the student activism of Lumi Bekiri – a student and a human rights activist involved in mass student movement in late autumn 2014 in Skopje and throughout the country. The article includes a private artistic photography of Lumi Bekiri and attempts to discredit the Student movement using implicit homophobic rhetoric. Similar to previous cases, the article attracted a barrage of homophobic and nationalistic posts and comments expressed in social media. Again, no one was held accountable for incitement to violence.
- In April 2015, a prominent Macedonian actress and a keen LGBTI ally, Irena Ristic, was targeted in social media by a colleague, Toni Mihajlovski - an avid supporter of the homophobic and misogynistic policies of the ruling coalition – who called her ‘nymphomaniac and lesbian’.
- Social media was also flooded with homophobic hate speech before the 2nd workshop on feminism on 14th April 2015 organised by LezFem – a lesbian and feminist group from Skopje. A dozen of boys aged between 11 and 19 occupied the Facebook event wall of the workshop displaying quite upsetting homophobic and misogynistic attitudes.

### **Bias motivated violence**

- According to the results of the Hate Crime Monitoring project of the Helsinki Committee for Human Rights for 2014 the rate of hate crime incidents due to the sexual orientation of the victim is ranked third preceded by ethnic belonging on the first place and political affiliation on the second. The same project revealed that in 2014 there is a rise in hate crime incidents targeting individual members of the LGBTI community and that there is

an increased trend of impunity for violence against LGBTI people. It also argues that the lack of prompt and effective investigation of the previous attacks in 2012 and 2013 stimulated the attacks in 2014.

- In October 2014, around 30 hooded assailants violently attacked the café Damar where activists were celebrating the LGBTI Support Centre's second anniversary. Perpetrators stormed the Café in central Skopje, throwing bottles, crates, and chairs at individuals. Two people were injured, one severely. Activists reported assailants told them to leave, as "faggots were not welcome here". They left before the police arrived. No perpetrators have been charged.

## **Equality and non-discrimination**

- In July 2014, the government asked the parliament to submit a set of amendments to the Constitution, including one specifying that marriage is the union of a man and a woman. Parliamentarians provided just enough support (82 out of 123, the two thirds required for constitutional amendments) to proceed to the next phase. However, in August the government altered its proposals to further specify that "registered cohabitation", or any other form of "registered life partnership", were a "life union solely between one woman and one man". This led MP Liljana Popovska, leader of the Democratic Renewal of Macedonia (DOM, green, junior coalition partner), to withdraw her support. Following a country visit, the Council of Europe's Commission for Democracy through Law (the Venice Commission) said the amendment was "problematic", and recalled that under European Court of Human Rights jurisprudence, there was no justification for Member States to provide registered partnerships to different-sex couples only. The commission added that elevating marriage "to the rank of constitutional principle [did] not seem necessary from the legal point of view". In December, the government reworded its amendments so that any future family-related legislation (including registered partnerships) would require a two-thirds majority in parliament. Following the country visit, Minister of Justice said the government would reformulate the amendments in accordance with the Venice Commission recommendations. This, however, didn't take place. In January 2015, the Parliament started debating the new formulation of the amendments. The government lost the necessary votes for the final voting on the Amendments and the Parliamentary session, at the moment of writing of this submission, is in recess.
- In the end of 2014 the Commission for protection of discrimination (CPD) found that the textbooks of Medical Psychology and Psychiatry defining homosexuality as a mental health disorder and heterosexual relations as the only form of 'normal sexual activity' are discriminatory. At the same time, CDP didn't find discrimination while reviewing similar text in a different textbook. These arbitrary and inconsistent decisions by CPD, made also in the past years, do not inspire trust and confidence in the work of the institution.

## **Freedom of assembly**

- In January 2015, the Criminal Court found the attack on two LGBTI activists during the March of Tolerance in November 2012 as violation of the right to freedom of assembly. However, the judge didn't recognise the attack as hate motivated crime despite the fact that the defendant had clearly repeated his motive of the attack even during the court hearing.
- An LGBTI event took place in the north-western town of Tetovo for the first time on 10 December, International Human Rights Day. Organisers faced hostility from locals, arguing there were "no gay Albanians". (Ethnic Albanians make up a majority of the population of the town and its surrounding region.) However, there were no recorded incidents of violence at the event and the police provided adequate protection. The event was attended by foreign embassies in Skopje, representatives from OSCE mission and EU Delegation. No government representative agreed to attend at the event.

### **Trans<sup>†</sup>**

- Trans people are completely excluded from the national legislation. No law prohibits discrimination on the basis of gender identity and trans people are in legal limbo when it comes to recognition of their gender. During 2014, the NGO Coalition on Sexual and Health Rights of Marginalized Communities has documented three cases when the rights of trans people were violated. Notwithstanding the positive obligation under the European Convention on Human Rights to provide legal recognition of the gender of people who have undergone gender reassignment surgery, the state institution in FYR Macedonia responsible for personal identification registry of citizens continues to make arbitrary decisions regarding legal gender recognition of transsexual people.

### **Police and law enforcement**

- To date there have been no new developments regarding the investigation and the prosecution of the five cases of violence against the LGBTI Support Centre (the earliest one from 23rd October 2012) and the two attacks against the home of the LGBTI activist Petar Stojkovikj (25th June 2013 and 12th July 2013). The Ministry of interior affairs and the Public Prosecutor's office have not yet been able to identify the perpetrators of 5 from the 6 said attacks against the LGBTI Support Centre, including the 23rd October attack in Damar café, despite the fact that video surveillance records have been delivered to the police.
- In November 2014, the National network against homophobia and transphobia protested in front of the Public prosecutor's office and complained to the police that ineffective investigations into previous attacks had contributed to the latest assault on Damar cafe. The police responded by stating that they had filed the relevant reports with the prosecutor's office. This was followed by a statement from the general prosecutor, asserting he wasn't familiar with the number and the dates of the attacks against the LGBTI community.

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<sup>†</sup> *Trans* is an inclusive umbrella term referring to those people whose gender identity and/or a gender expression differs from the sex they were assigned at birth.

- The first public LGBTI event in Tetovo on 10th December 2014 was well protected by the police largely due to the presence of international actors such as the EU, OSCE and Member States' missions.

### **Political context**

- The overall political situation in the country has been significantly worsened since early February 2015 after the disclosure of the top-level political scandal with the constant several-years-long surveillance by the state security agency of more than 20000 people in the country, including political opponents, journalists, NGOs, but also ministers, MPs, judges and prosecutors. These data displayed by the leader of the main opposition party SDSM, show frightening and shocking information of unprecedented criminal and corrupt activities among the key decision makers in the executive, judiciary and legislative authorities in the country. The main opposition party SDSM has been outside of the Parliament since the beginning of their tenure in May 2014. The political crisis will most likely not finish in the months to come, and since this wiretapping scandal has made the very institutions competent to protect, promote and respect the human rights of the LGBTI people, completely illegitimate and non-functioning, the short and mid-term perspective of the advancement of the LGBTI rights in the country is not favorable and positive.