



**ILGA-EUROPE Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex people in FYR Macedonia
Contribution to the 2014 EC Progress report**

With contributions of the LGBTI Support Centre, the Helsinki Committee for Human rights, the Subversive Front organization, and the Women's Alliance¹

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Introduction

In its progress report 2013, ILGA-Europe recalled that the discrimination and stigmatization of the LGBTI community remained widespread in the country, and is often fuelled by bias motivated speech from public officials. One of the most high profile incidents in this respect had revolved around the derogatory comments of the Minister of Labor and Social Policy about LGBTI families, comments made under the guise of protecting minors and defending of the heterosexual family unit. Likewise, journalists also contributed significantly towards the stigmatization of the LGBTI community through sensationalist and inflammatory articles. Furthermore, there were cases of violence against LGBTI human rights defenders, including an attempt to set the LGBTI Support Centre on fire. Stakeholders have continued to express significant need for more awareness-raising activities and campaigns to prevent discrimination and to promote understanding of the Law on Anti-Discrimination.

Summary of developments since the last ILGA-Europe report

During the year under review, Macedonia saw repeated violent attacks on activists and the Skopje LGBTI Centre, including insults, beatings, stone throwing and arson. The ruling party has also used sexual orientation and gender identity as a wedge issue to political ends, attempting to discredit the opposition by forcing them to adopt a position on a constitutional amendment restricting marriage to different-sex couples. Written and online press also remained overtly homophobic, encouraging outings and hatred towards LGBTI individuals.

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The Anti-Discrimination Law prohibiting discrimination adopted in 2010, fails to include sexual orientation and gender identity as protected grounds.

Despite local and international criticism including the EU and the UN treaty bodies, the government has refused to amend the law.

As it was advocated by several human rights organizations, repeated attacks by the media, government officials and non-state actors against the LGBTI community underscore the urgent need for protection in law against any forms of discrimination on the grounds of sexual orientation or gender identity. The recently established Commission for Protection against Discrimination showed willingness to be educated on sexual orientation and gender identity, but activists criticized its failure to process related cases.

Non-discrimination

The Law on Anti-Discrimination is still not fully aligned with the *acquis*, as it does not prohibit sexual orientation and gender identity as grounds for discrimination. During the year under review, amendments to the Law proposed by the Ministry of Labour and Social Policy were adopted through a fast track procedure. Despite the need for substantial changes to the law, the Parliament only adopted amendments relating to the criteria for selection of the Commission for Protection against Discrimination members. There will be new amendments to the Law on Anti-Discrimination in May 2014, but these amendments as the previous will be relating only to the composition of the Commission.

Commission for Protection against Discrimination (herein “the Commission”) handles complaints based on sexual orientation and has already issued several reports in this regard. But activist’s criticised the Commission lack of political, institutional and financial independence vis-à-vis the government, which they said hindered its power or willingness to process LGBTI-phobic cases. They regretted that the Commission had only processed 12 cases related to sexual orientation; had failed to respond within the allowed time limit for 6 cases; and only found a violation in one case. Combined with the absence of judicial recourse for discrimination based on sexual orientation, activists said protection was effectively inexistent.

Freedom of assembly and freedom of expression

A Pride march initially planned for June had to be cancelled due to serious threats to participants’ security. NGOs held a Pride Week the same month instead, which was marred with violence (see Bias-motivated violence). The LGBTI Centre held a March of Tolerance in November together with 15 other NGOs, which went ahead peacefully.



The LGBTI Support Centre reopened its doors in November following renovations made possible by the United Nations and NGO Front Line Defenders, to make the local safer following numerous attacks (see Bias-motivated violence).

European Parliament Rapporteur for Macedonia MEP Richard Howitt visited the Centre to express the EP's support. By the end of the year, legal proceedings against attackers of the November 2012 March of Tolerance were still pending.

Media

The Helsinki Committee sent a written request to the Broadcasting Council, for a written certificate granting access to free broadcasting of the campaign on radio programmes, i.e. a certificate stating that the campaign "Macedonia has love for all" is a campaign of public interest. The Broadcasting Council stated that it is out of their competence to give any suggestions or opinions on programmes intended for radio broadcast, before they are broadcasted by the radio stations.

Furthermore, during a public session of the Broadcasting Council, held on 11.11.2013, on the topic of "Gender and the media", a representative of the Helsinki Committee for human rights and the LGBTI Support Centre enquired about whether the campaign "Macedonia has love for all" would deserve to be broadcasted free of charge as a campaign of public interest in line with Article 96 of the Law on broadcasting. The Council's President, Zoran Trajchevski, responded indicating that the rights of a group within the population are not of public interest. The Council president further said that he didn't consider that LGBTI community should get full attention in Macedonia, considering the fact that he didn't believe that the "so-called" rights of LGBTI people are in any way endangered in comparison to other citizens in the Republic of Macedonia.

Anti-LGBT attacks were mentioned in the EC Progress Report on Macedonia but this information was barely relayed in the media.

Bias speech motivated speech and violence

The Skopje LGBTI Centre was attacked on three occasions, including arson, and sometimes while groups were present inside. In March, stones were thrown at the Centre during a demonstration. Seven perpetrators were sentenced to 3-12 months' imprisonment, and seven others received suspended sentences. During the Pride Week in June, ten policemen were posted at the Centre to prevent violence.

Another attack took place in July, when attackers climbed on the building's rooftop at night poured flammable fluid beneath roof tiles, and set the roof on fire. The Helsinki Committee reported that none of these attacks was properly investigated, despite the video evidence made available to the police.



Seven football supporters attacked LGBTI activists in the southern town of Bitola. The activists were carrying flags, placards, and handing out posters on the rights of LGBTI people in the city Centre, when attackers violently grabbed the posters, and hit activists' faces while insulting, spitting on, and pushing them around.

The activists reported the attack to the police. Subsequently, NGO LGBT United Group received several threats of physical attacks, some amounting to death threats, on the organization Facebook page. A photo of the activists was also posted on the official Facebook page of the Macedonian Sport Fans' group with the message: "Never again will faggots step foot in Bitola"

The Helsinki Committee for Human Rights in the Republic of Macedonia developed two internet platforms/portals for mapping and monitoring of hate speech and hate crimes in the Republic of Macedonia. Although many reports have documented manifestations of hate speech and hate crimes based on sexual orientation or gender identity, the institutions in Macedonia have failed to take action. . There is still no outcome for the previous attacks of the LGBTI Support Center or for the attacks of the human rights activists.

Family

In August the parliamentary group of the ruling Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity party (VMRO-DPMNE, nationalist/conservative) announced an initiative to amend the constitution to define marriage as the union between a man and a woman, and restrict adoption to heterosexual married couples or single individuals. The government supported this proposal, but main opposition party Social Democratic Union of Macedonia (SDSM, social-democratic/Centre-left) objected this would increase intolerance and institutionalize discrimination. In September, the proposal failed to receive support from a qualified majority.

Public and political life

Several political parties signed the Declaration for condemning hate speech and discriminatory speech toward women, LGBTI people, and marginalized communities. The NGOs, among which was the LGBTI Support Centre, asked the politicians to refrain from discriminatory messages in their election campaigns. The Civil Option for Macedonia (GROM) party supported the Declaration, but its president, Mr. Stevčo Jakimovski, unavailable for the signing. The ruling party VMRO-DPMNE did not sign the document the same goes for all the Albanian parties in Macedonia.

Education

The Commission for Protection against Discrimination engaged in a complaints procedure against the textbooks Medical Psychology and Psychiatry Vol. 1 and Vol. 2, where manifestations of harassment based on sexual orientation had been identified.

The complaint was lodged by several civic society organizations – members of the Network for protection against discrimination

The aforementioned three textbooks are used in higher education at the University "Ss. Cyril and Methodius" as psychological and psychiatric professional literature for students of medicine, psychology and other related subjects.

The textbooks contained homophobic contents that present homosexuality as a mental disorder and sex drive inversion, defining "normal sexual activity" as the sexual activity of persons of opposite sex, etc.

Recommendations

FYR Macedonia needs to ensure that its laws and policies protect all human rights of LGBTI persons in accordance with the existing international legal standards applicable at the level of the United Nations, with the Universal Periodic Review Second Cycle recommendations ² and the Council of Europe recommendation CM/Rec (2010) on measures to combat discrimination on grounds of sexual orientation or gender identity.

FYR Macedonia needs to fully adopt and operationalize EU fundamental rights acquis and laws and policies covering equality and non-discrimination on the grounds of sexual orientation, enshrined in Articles 10 and 19 of the Treaty on the Functioning of the European Union (TFEU) and Article 21 of the Charter of Fundamental Rights of the European Union (CFREU). The EU's founding principle of equal treatment also protects transgender persons against discrimination. This is enshrined in the EU Gender Recast Directive (2006/54/EC), in the Gender Goods & Services Directive (2004/113/EC) and, with explicit reference to gender identity and expression, in the EU Asylum Qualification Directive (2004/83/EC) and the EU Victims' Rights Package (2011/0129).

At the national level the FYR of Macedonia government, parliament and other institutions should:

- Take measures to implement fully and without further delay the 2010 Anti-Discrimination Law, including by integrating the protection of LGBTI people, introducing additional enabling legislation and promoting the law;
- Amend anti-discrimination legislation to include sexual orientation and gender identity as specific grounds for discrimination;

² Human Rights Council Working Group on the Universal Periodic Review Eighteenth session Geneva , 27 January–7 February 2014- report adopted by the Working Group- Universal Periodic Review Second Cycle -The Former Yugoslav Republic of Macedonia

- To open prompt, impartial and effective investigations into attacks on the lives or property of LGBTI individuals or organizations;
- Ensure that any alleged homophobic or transphobic hate motive is thoroughly investigated;
- Introduce without further delay and in consultation with LGBT organizations, legislation prohibiting hate crime, specifically including hate crimes based on sexual orientation and gender identity, as well as other grounds recognized in international standards;
- Develop in close interact with LGBT organizations non-discrimination awareness raising campaigns to promote the rights of LGBT people;