



**ILGA-Europe Review of the Human Rights Situation of Lesbian, Gay, Bisexual,
Trans and Intersex people in Kosovo**
Contribution to the 2014 EC Progress report
In cooperation with Qesh organization¹
16 May 2016

Introduction

In its 2013 report, ILGA-Europe had expressed concerns about the fact that rampant homophobia remained a serious threat for LGBTI people in Kosovo. While antidiscrimination legislation on the grounds of sexual orientation is in place, the impact of the law remains very limited in the absence of any proactive policy to ensure its effective implementation.

Summary of developments since ILGA-Europe's last report

Continued violent attacks and threats directed at LGBTI activists remained a serious concern in Kosovo.

The European Parliament in its resolution adopted on 16 January 2014 in Strasbourg expressed concern that *"discrimination is still a serious problem and calls on the authorities to give effect to the constitutional principle of non-discrimination; stresses the need for a comprehensive anti-discrimination strategy and for the Law on Anti-Discrimination to be implemented fully so as to guarantee, in accordance with the EU Charter of Fundamental Rights, the equality of all people irrespective of their ethnic origin, religion, gender, sexual orientation, age, or disability²"* ;

Non-discrimination

Cases of discrimination in bars and coffee shops have been reported, where members of the LGBT community have been denied access or kicked out. In May 2013, QESH held a roundtable on LGBTI issues with support from the government. Minister for European Integration Vlora Citaku and Ombudsperson Sami Kurteshi took part in the event. Throughout the year, the Prime Minister's Legal Office worked to amend the Anti-Discrimination Law where gaps had been acknowledged in terms of its implementation and lack of clarity as to the role of different institutions. During the process, officials consulted human rights organizations, including LGBTI NGO QESH. Gender identity was added to the list of the protected grounds from discrimination. (Sexual orientation was included in the original version.) QESH provided input to the process.

¹ ILGA Europe is grateful to Vlora Krasniqi and Myrvete Bajrami from Qesh Organization for their cooperation in preparing this submission

² European Parliament resolution of 16 January 2014 on the European integration process of Kosovo (2013/2881(RSP))



The Anti-Discrimination Law amendments which included gender identity as a ground of discrimination were adopted by the Government of Kosovo. The afore law is expected to reach the parliament during 2014.

LGBT organizations under the leadership of QESH continued intense advocacy efforts designed to ensure that human rights violations faced by LGBT organizations could be addressed in Kosovo. Resulting from those efforts, the government created the “Advisory and Coordination Group on the rights of LGBT (Lesbian, Gay, Bisexual and Transsexual)”. The main purposes of this group are on the one hand to create a unity, partnership and regular cooperation between local and international institutions and non-governmental organizations working to protect and promote the rights of LGBT community members and secondly to initiate joint actions to prevent and combat discrimination on grounds of sexual orientation. The Advisory group is led by the Prime Ministers Office of Good Governance and co-chaired by QESH.

During the drafting of the Gender Equality Bill, the “protected characteristic of gender reassignment” was added. The bill is due for adoption in 2014

Access to goods and services

Activists reported numerous occurrences of LGBTI persons being refused service in bars or cafés after vendors realise or assume their identity. However, since there is no legal basis on which to report cases to authorities, no numbers or specific cases were available.

Freedom of assembly and freedom of expression

On March 2014 the verdict related to "Kosovo 2.0" case was reached . A single trial judge at the Pristina Basic Court convicted three persons in relation to incidents that occurred on 14 December 2012 in Pristina. The incidents occurred at the Youth and Sport Centre where the media NGO Kosovo 2.0 had organized a promotional event for the "Sex" edition of the Kosovo 2.0 magazine. The indictment states that the three accused, together with a group of unknown persons, entered the 'Red Hall' of the Youth and Sport Centre, forcefully prevented and hindered the holding of a public meeting, destroyed part of the inventory and assaulted a Kosovo 2.0 staff member. The accused Albert Kastrati, Gani Latifi, and Driton Dili were found guilty of Violating the Equal Status of Residents of Kosovo (Article 158 CCK), Preventing or Hindering a Public Meeting (article 173 CCK) and Damage to Movable Property (article 260 CCK). The three defendants were each sentenced to six months' imprisonment on the charge of Violating the Equal Status of Residents of Kosovo, four months imprisonment for Preventing or Hindering a Public Meeting, and four months imprisonment for Damage to Movable Property. The attack against Libertas (see section below) has been dismissed from EULEX prosecution due to the lack of proofs.



In March 2014 QESH organized a photo exhibition on portraying LGBT community and where more than 200 people attended the exhibition. The Kosovo Police provided security and no incidents were reported. QESH in cooperation with other LGBT organization organized street actions as well as a reception on the occasion of 17th May IDHAOT event. The former LGBT NGO Libertas has closed down and stopped functioning in mid-2013. Activists from Libertas have opened a new LGBT organization called “Center for Equality and Liberty” (CEL) with the main goal being to strengthen LGBT community.

Bias motivated speech and violence

Incidents against the LGBTI community have continued. After magazine Kosovo 2.0 published a highly controversial issue on sex and sexuality in December 2012, NGOs reported seven cases of violence, as well as an attack on LGBT NGO Libertas. These events were investigated, but in December EULEX (the European Union-run assistance programme to Kosovo) told LGBTI NGO QESH that it would dismiss the case concerning Libertas for lack of evidence to identify perpetrators. Bullying and discrimination towards LGBT individuals in the school environment has increased. Manifestations of hate speech towards the LGBT community have also taken place coming from Muslim imams as well as from sports fan clubs. A parliamentarian member coming from Justice Party (religious party) has openly called homosexuality a disease and deviation and called upon others to stop supporting deviation in Kosovo.

Hate speech remains very common on social media and Online Media Portals, where LGBT community is often attacked and threatened. Worth mentioning, is that most of the hate speech is being expressed in online media portals, under the articles (that is about LGBT) where the readers can comment. The majority of online media portals does not monitor or deletes such comments.

Recommendations

Kosovo 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 and the Council of Europe and the recommendation CM/Rec (2010) of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity.

Kosovo needs to integrate EU fundamental rights acquis and notably 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 Re Cast 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).