

Strategizing event on ‘Shrinking civil society space for LGBTI organisations’

Summary paper

September 2015

Introduction

Civil society organisations around the world are increasingly facing restrictions and limitations which manifest in many different ways- restrictive NGO laws, limits on funding sources, distorted criminal charges, arbitrary raids and audits of organisations, restrictions to freedom of assembly, association and expression. In addition, individual human rights defenders are often subjected to intimidation and harassment. This global trend can also be observed in Europe (both in EU and non-EU member countries) and where it is observed, LGBTI organisations are affected and often specifically targeted.

Because of the above, ILGA-Europe found it important to explore further how this trend affects our members and how to support them in their work in such contexts. In 2014 we have commissioned a study, including a consultation with our selected member organisations, and have conducted a workshop at our Annual conference in Riga. During the first half of 2015 we have increased our knowledge about this theme by having internal meetings and in depth discussions with our members. This led to a strategizing event that took place in July 2015 and aimed at providing a space for experience sharing, learning and strategizing for most effective responses to this trend.

In addition, ILGA-Europe has engaged with international civil society, donors and institutions with an aim to bring the concerns of LGBTI civil society to the discussions on *shrinking civil society space*. To this end we have been an active part of different civil society platforms and working groups and have advocated for and contributed to EU-NGO Forum on *shrinking civil society space* taking place in December 2015.

All this was done with the goal to open the space for (LGBTI) civil society by improving effective response capacities of our members and by putting this theme high on the agenda of EU institutions and member states. While acknowledging that prejudice and negative attitudes towards LGBTI community aggravate the impact of this trend on LGBTI CSOs and activists, we have agreed to frame the challenges faced by LGBTI organisations as part of democratic regress and bigger crackdown on civil society in the countries concerned. At the same time, we have committed to build strategic partnerships and alliances in order to better monitor and respond to this trend, and to facilitate intelligence and experience sharing between different actors, in particular between affected member organisations and donors, as to gain deeper insight, find synergies and devise adequate programmatic responses.

This paper summarises the key reflections and findings of the strategizing event and the consultations with members from Armenia, Georgia, Hungary, Lithuania, Macedonia, Russia and Turkey. While this is not a comprehensive assessment of the situation in Europe, it is a good basis for further conversations with our members and partners.

Overview of experiences of LGBTI organisations

Manifestations of shrinking space for LGBTI organisations and responses reported by members

Experiences of LGBTI organisations within shrinking space for civil society span across a wide spectrum of its manifestations. A series of consultations and a thematic meeting held by ILGA-Europe with LGBTI member organisations from countries where the shrinking space trend is observed reveal the complexity and diversity of the forms restrictions can take and of the barriers to efficient operation that they create.

<i>Manifestation</i>	<i>Examples reported by members</i>	<i>Responses shared by members</i>
LEGISLATIVE ENVIRONMENT		
<p>Laws that restrict or ban foreign funding to non-governmental organisations;</p> <p>Laws that increase state oversight over NGOs in receipt of foreign funding;</p> <p>Official classifications of NGOs that decrease opportunities for NGOs in certain categories;</p> <p>Tax regulations;</p> <p>Private donations regulations;</p> <p>Regulations on engagement of volunteers (registration of volunteers)</p>	<p><u>Hungary</u>: foreign donors need to register to be able to do grant-making in the country; reforms in the NGO law created extra burdens for NGOs, who are forced to reapply for their public benefit status and to amend/ rewrite their constitution and/ or bylaws. NGOs are in a legal limbo for months/ years (any changes in the NGOs constitutions and bylaws should be registered with the courts, and courts are experiencing big backlogs); legal definitions of “public benefit activity” are unclear and therefore may be interpreted arbitrarily; advertisement tax disproportionately affects media independent of the government.</p> <p><u>Azerbaijan</u>: every foreign grant needs to be approved by the Ministry of Justice for the grantee to be able to access the funds on its bank account;</p> <p><u>Russia</u>: ‘foreign agents’ law that requires groups engaged in ‘political activity’ and in receipt of foreign funding to register as ‘foreign agents’ with the Ministry of Justice, which leads to reputational risks, heavy reporting obligations, higher interference of the authorities in the activities, and barrier to engage in direct communications with the authorities.</p> <p><u>Lithuania</u>: ‘public benefit NGO’ status, without which opportunities to receive public funding, engage in advocacy, work with the media, etc. are limited; people shy away from donating to an LGBTI NGO even though they are entitled to donate up to 2% of their taxes to a non-profit,</p>	<p>Strategic litigation – at the European level (not necessarily successful at country-level);</p> <p>Strategic use of international advocacy (UPR submissions; 3rd-party interventions at CoM, etc.);</p> <p>Documentation of developments and cases;</p> <p>Partial reallocation of organisational resources to this thematic work; restructuring formats of operation;</p> <p>Increasing outreach to supportive MPs (political allies);</p> <p>Increased cooperation and lobbying with local politicians – e.g study visits to organisation;</p> <p>Evidence-based campaigning;</p> <p>Legal analysis and research</p>

	<p>because the name of the recipient organisation will appear in tax records.</p> <p><u>Macedonia</u>: a tax increase on honoraria (from 10 to 30 %), which affected LGBTI NGOs that have few employed staff and rely heavily on service agreements.</p> <p>Obligatory registration of volunteers: must be official if paid for or reimbursed (administrative burden to organisations and risks for volunteers as authorities can access information).</p>	
PARTICIPATION IN POLICY MAKING		
<p>Non-transparent or even closed consultation processes, no targeted invitations (esp. to LGBTI NGOs), public consultations are only conducted in an online “mass consultation” format, with no obligation to follow-up on received comments or share them;</p> <p>policy and legislative changes are made without any consultation with any stakeholders;</p> <p>Input provided by LGBTI NGOs is not integrated or considered in any way;</p> <p>Cooptation of space by GONGOs and fake CSOs with low level of activity</p>	<p><u>Hungary</u>: systematic restriction to participate in policy-making processes; lawmaking and policy-making procedures allow circumventing public consultations and fast-tracking bills</p> <p><u>All countries</u>: LGBTI organisations are almost never invited to contribute to consultation processes. In consultation processes initiated by the EC, concerns raised by LGBTI groups have not been integrated in the subsequent reporting and recommendations.</p> <p><u>Armenia</u>: civil society/ public consultation processes are often closed and not announced, therefore contributions are possible by invitation only.</p>	<p>Joining networks to deliver agenda;</p> <p>Shadow reports to UPR, ICCPR, etc.;</p> <p>Creation of task groups (lawyer + LGBT activist) to target MPs;</p> <p>Increasing outreach to and reliance on local/national HR rights bodies (ombudspersons);</p> <p>Strategic decision to step-out of any dialogue and policy consultations;</p> <p>Exposing GONGOs.</p>
FREEDOMS OF ASSEMBLY AND EXPRESSION		
<p>Restricted access to media (state control over public media);</p> <p>Laws that prohibit dissemination of information about LGBTI issues in the media;</p> <p>Restricted enjoyment of freedom of assembly;</p> <p>Increased powers/ warrants of law enforcement in relation</p>	<p><u>Armenia, Georgia, Hungary, Lithuania, Macedonia, Russia, Turkey</u>: authorization not granted to public events; authorities put forward requirements that obstruct planned activities (e.g. requested change of location or time); notice of no guarantee of necessary police presence at the event – therefore higher security risks.</p> <p>In all these countries media freedom is (to different extents) limited, resulting in significant barriers to constructive</p>	<p>Strategic litigation;</p> <p>Increase outreach to local media;</p> <p>Increase targeted work with journalists, editors (incl. through strategic use of story-telling);</p> <p>Lobbying national or regional human rights bodies (re: freedom of assembly)</p>

<p>to oversight of public events.</p>	<p>presence of LGBTI agenda and groups in the media. <u>Russia, Lithuania</u>: laws on the protection of minors from harmful information (incl. information about LGBTI issues) that result in censorship or risk of censorship of LGBTI-specific information in open access without age restrictions. E.g. in Russia, the ‘propaganda’ law led to the prosecution of an online support group for LGBTI adolescents, as well as a number of cases or complaints about public events, media publications, and films. In Lithuania, television channels quoted the law on the protection of minors to refuse to broadcast a social ad tackling stereotypes about LGBT.</p>	
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PUBLIC IMAGE, LEGITIMACY, AND TRUST

<p>Demonizing of foreign donors and organisations that receive funding from abroad; Promotion of a negative image of NGOs in the state-funded media; Discrediting campaigns against human rights defenders and NGOs</p>	<p><u>Armenia, Georgia, Hungary, Lithuania, Macedonia, Russia, Turkey</u>: Smear campaigns in the mainstream media targeting LGBTI NGOs and HRDs. Negative reporting on the activities and agenda of foreign donor organisations, presenting them as destructive towards national values and interests. Statements by religious groups and churches condemning activities and agenda of LGBTI NGOs.</p>	<p>Social campaigns to raise positive visibility of LGBTI NGOs and the cause (Lithuania, Macedonia, Turkey) and reframe LGBTI issues; Greater engagement in integrating LGBTI issues into social and cultural work; Developing relations with the academia; Investing in greater transparency, incl. through boosting public reporting and improving outreach and accessibility of groups’ information across the country; Designing smart media strategies to access mainstream media; Diversifying political interlocutors; Quitting mainstream public debates/ media</p>
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SAFETY AND SECURITY

<p>Lack of action from the authorities to respond to violations of rights, to support NGOs, etc.; Surveillance of activities</p>	<p>Shared in <u>all countries</u> to different extents: no condemnation of threats and violence against NGOs/ LGBTI NGOs; direct calls from politicians or other opinion leaders to ‘harsh measures’</p>	<p>Measures aimed at physical security: organisational security strategy, reinforced locks/ doors and other equipment, More emphasis on digital</p>
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<p>of NGOs and HRDs by law enforcement, security services;</p>	<p>against ‘harmful’ organisations; <u>Russia</u>: cases of meetings of activists having been recorded and emails being monitored; <u>Hungary, Russia</u>: activists targeted by questioning by prosecutors and/or other law enforcement authorities.</p>	<p>security (encrypted emails), Avoiding unofficial audits – requesting official notice every time; Keeping members’ information confidential as much as possible; Increase direct communication with local police stations prior to events.</p>
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ACCESS TO JUSTICE

<p>Selective and/or disproportionate application of existing laws; Financial and other investigations against NGOs, which result in administrative or criminal charges (mismanagement of funds, embezzlement, etc.); Unresponsive human rights bodies locally (e.g. ombudspersons); Record of unfavorable court decisions in cases of violence against HRDs or prosecution of NGOs.</p>	<p><u>Hungary</u>: award-making foundations investigated and taken to court under a variety of hoax charges, obstructing their operation. <u>Russia</u>: LGBTI NGOs not recognised by human rights ombudspersons, therefore their interests are excluded from Ombudspersons’ consultations, research, reporting, and recommendations. <u>Armenia, Russia</u>: counter-protesters at court hearings block access to the courtroom, obstruct the process, pose security threats to those attending the hearings with no action taken by the police or other authorities.</p>	<p>Legal awareness trainings for LGBTI persons and activist communities; free of charge legal assistance for LGBTI; Targeted work with police, courts, and judges; Work with NHRIs and ombudspersons; Translation/publication of literature on HR; Cooperation with bar associations; Joint protest actions with allies to respond to specific cases; Trial monitoring missions</p>
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ACCESS TO FUNDING

<p>Public funding not available/awarded to LGBTI NGOs; Unclear and non-transparent calls for proposals and decision-making in potentially applicable funding programs; Restructuring of funding schemes and priorities</p>	<p><u>Lithuania, Macedonia, Hungary</u>: anti-discrimination structural funds are not available for LGBTI NGOs; in public funding, the focus is on ‘family values’ and HR funds are distributed to causes and issues other than fundamental rights and freedoms. <u>Armenia, Georgia, Russia, Turkey</u>: no public funding awarded for LGBTI human rights work. Limited or non-existent public funding for human rights work by NGOs.</p>	<p>Fundraising with private companies and businesses; Establishing foundations – bigger NGOs re-grant to smaller; Developing crowd-funding strategies; Creating coalitions to access funds with a broader agenda.</p>
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POLARISATION OF CIVIL SOCIETY & DEMONIZATION OF ALLIES		
Allies of LGBTI organisations are attacked by opponent groups and the state (prosecution and harassment by affiliation)	<p>In <u>Georgia</u>, Transparency International's support to LGBTI groups was used as another token against it in smear campaigns and attacks by religious groups.</p> <p>In <u>Armenia, Russia, Georgia, Macedonia, Hungary, Turkey</u> – allies, service providers, and businesses face pressure due to their cooperation with NGOs/ foundations.</p> <p>In <u>Lithuania</u>, no candidates that voiced support for LGBTI equality agenda were selected for the position of ombudsperson.</p>	Alliance building (thematic and ongoing), through joint initiatives addressing crosscutting issues, multidisciplinary groups, etc.; Solidarity actions; Engaging professional audiences and experts as multipliers and opinion leaders; Focus on principles of nondiscrimination/universal human rights; emphasize the benefits of social inclusion – economic arguments.

In addition to the above described manifestations of shrinking space on LGBTI NGOs and their relations with other stakeholders, several organisations reported further factors contributing to the shrinking space, such as cooptation of public information space and public debates by the Church (e.g. in Armenia, Georgia, Russia it is reflected both in the presence of the Orthodox Church in the media and in the public spaces in direct opposition to LGBTI organisations and their activities, while LGBTI NGOs do not have access to the same communication channels and are denied access to public spaces). Polarization and politicization of the civil society (e.g. imagined and widely promoted affiliation of certain NGOs with political parties) further harm trust toward NGOs among their primary constituencies and wider population and lead to cooptation of LGBTI and other HR agenda by political forces engaged in speculations.

Overall, many organisations reported that the clampdown on civil society led them to revisit their strategies and priorities. Groups started to invest more in community empowerment (e.g. Macedonia, Russia, Hungary, Georgia), in some cases – moving further away from direct and full-fledged advocacy for improvement of policies and legislation. The focus on community building is seen as a way to build stronger ties (and trust) between people and NGOs (e.g. Macedonia), or to have a consolidated and informed community and network of allies to step up when the environment becomes more favourable (e.g. Russia). Pressure on NGOs and diminishing space for civil society has a serious impact on transparency. Depending on the exact manifestations of shrinking space and the risks that groups face, they may invest more in ensuring maximum transparency and accountability (e.g. Hungary, Georgia), or, on the contrary, to put efforts in protecting their information as much as possible and temporarily give up on the standards of transparency for the sake of safety and security (e.g. Russia).

Narratives that are being used to frame repressive policies and practices

The discussion on narratives has revealed that the most commonly used narratives to discredit and vilify LGBTI organisations and their allies are those that label them as *'foreign agents'*, *'income NGOs'*, and *'promoters of western values/undermining traditional values'*. These messages are promoted by legislative and executive branches of the governments, different level state authorities, state controlled media, pseudo-patriotic and 'anti-gender'* movements, church and other religious institutions. Organisations have mainly used legal arguments and human rights frame (referring also to the universal

value of love and non-violence) to respond to these attacks. Some have also conducted social campaigns (Lithuania, Macedonia, Turkey, Russia, Hungary) primarily in response to the ‘undermining traditional values’ narrative. It became evident, however, that the response to counter those harmful narratives and to restore the legitimacy of NGOs has not been adequate so far.

Narratives/frames	Key messages/imagery	Who promotes them?	Counter narratives/messages
Agents of western interests/spies/traitors foreign agents	-Threat to national security -Non-authentic / deceptive -Have powerful hidden agenda -Internal enemy against national interests -Must be neutralized	Governments, State run media, Politicians, Pseudo-patriotic movements	Government is also receiving money from abroad <i>Proactive and Positive counter messages are lacking</i>
Grant eaters/sorosides/income NGOs	-Not representing real people, no relevance -No values – will do anything for money -Must be discredited and excluded	Gov-Ministries responsible for NGO affairs and EU funding, Politicians (political affiliation doesn’t always matter), State run media, Nationalist movements	<i>Positive counter messages are lacking</i>
Promoters of western liberal values/ undermining traditional values/cancer/im moral/ Gayropa/ Conchitta’s Witnesses, liberast (liberal+pederast)	-Western values = gay marriage = pedophilia = incest = degradation -Threat to children and family -Disappearing of the nation – threatening population -Liberal =enemy of tradition -End of humanity -Minority terrorizing the majority -Must be attacked and eliminated	States, ‘anti-gender’ movements , Church and other religious institutions, Politicians, State controlled media	<u>Turkey:</u> LGBT Rights are Human Rights-universalism <u>Russia:</u> We are in support of traditional values of love and non-violence <u>Macedonia:</u> campaign Macedonia has love for all

Ways forward

Approach and responses that members identify as priority

Organisations – participants to the consultations and the meeting- named several general measures that they see as key to ensure efficient operation of LGBTI groups in the context of shrinking space and to respond to these developments. This includes reflections on how the agenda can be framed and what can be done to create space for action.

- Building alliances and networks with other organisations and influential actors, which is seen as a way to increase the available space for action and to reach out to different populations;

- Revisiting work with political parties and political groups and ensuring a strategic and consistent approach (in particular, work to combat hate speech);
- Incorporating LGBTI equality cause into economic discourse;
- Create ‘messengers’ and nurture vocal allies among other movement leaders or professional communities;
- Strengthen access to justice through ongoing communication with the police and the judiciary, proactively create spaces and platforms for this communication and ensure their safety.

Contributing organisations mentioned the following as those who have leverage and resources to support their responses:

- More experienced and resourced human rights organisations, as well as human rights bodies
- Flexible donors
- Commercial chambers, businesses, and academics
- International lawyers and legal experts

Responses and strategies that need further strengthening or creating

In addition to strengthening capacity on above mentioned priority areas –which fall within LGBTI equality work of the organisations- we have identified the following gaps that need to be addressed at local, national and international level.

- Documentation of developments; production of comparative data/ analysis on shrinking space for LGBTI – compare over a period of time or compare LGBTI with other groups.
- Development of positive messages and appealing counter narratives; voices of LGBTI civil society to be prominent in the wider civil society campaigns/actions that aim to restore trust and legitimacy.
- Developing organisational infrastructure and capacities (i.e. leadership, governance, security, transparency) of LGBTI NGOs, investing in re-building links/re-connecting with LGBTI community and wider public.
- Support for national level implementation of international and regional standards along with advocacy on standard and norm development.
- Advocacy for effective diplomatic and programmatic response from European institutions and member states.
- Long term and flexible donor support.

* Opponents of gender equality, sexual and reproductive rights and LGBTI rights, who use constructed ‘gender theory or ideology’