

ILGA-Europe's submission to the European Commission's 2010 Progress Report on BiH

Brussels, May 31, 2010

Political criteria

Human rights and the protection of minorities	
<i>Civil and political rights</i>	
Freedom of assembly, association and expression	<p>The law provides for freedom of assembly and association. In practice these rights are not always respected in relation to LGBT people.</p> <p>There are currently two registered LGBT organizations in the country, Organization Q in Sarajevo and newly established Equilibrium in Banja Luka. Regretfully, none of the organizations are currently very active.</p> <p>LGBT people in BiH remain largely invisible as increased visibility leads to increased violence and hate crimes. In September 2008 the First Queer Sarajevo Festival (QSF) organized by Organization Q was attacked by hooligans and religious groups. Eight people were injured during that night, while the organizational team became a target of hate speech and threats received constantly month before and after the opening of the Festival. As a result the Festival had to be cancelled.¹ Although the police was informed and was present during the opening of the Festival, adequate protection was not provided for the participants. In fact, police has allowed the aggressive crowd of people shouting "kill the fagots" to gather at the very entrance of the building of the Academy of Fine Arts. The special police didn't react even after the physical attacks on the guests and participants of the Festival².</p> <p>There was no public support for the Queer Festival by public institutions and officials. Moreover, some politicians and certain parts of the media in Bosnia and Herzegovina legitimated attacks against the organizers and participants of the Festival by their homophobic statements.</p>

¹ Report on Queer Sarajevo Festival-Organisation Q-Sarajevo, BiH

² <http://us.oneworld.net/article/357677-sarajevo-queer-festival-attacked>

	<p>ILGA-Europe, Amnesty International, LGBT Rights Intergroup of the European Parliament, and the Council of Europe Parliamentary Assembly condemned the violence and the state's failure to ensure the freedom of assembly and expression of LGBT people in BiH.³</p>
<p>Homophobic and transphobic violence/hate crime and hate speech</p>	<p>The Criminal Code of BiH (Article 145), the Criminal Code of FBiH (Article 177), the Criminal Code of RS (Article 162), the Criminal Code of Brcko District (Article 174) include sexual orientation in their anti-discrimination clause.⁴ However, 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.⁵</p> <p>The level of homo/transphobia is very high in BiH and almost every public appearance of an organization and/or an individual activist working on LGBT issues is followed by threats or actual violent attacks as demonstrated by the attacks during 2008 Queer Sarajevo Festival. The Festival stirred wave of homophobic hate speeches and threats directed towards both LGBT activists and their supporters. Death threats that have been continually issued on the Internet against individual gay rights activists constantly month before and after the opening of the Festival, including a YouTube film showing digitally manipulated images of one of the organizers to make them look as if they were beheaded. A number of websites have called for the organizers of the festival to be lynched, stoned, doused with petrol or expelled from the country. Eight people were injured during the opening night and their safety has been put in danger by the local media, including <i>Dnevni Avaz</i>, <i>Nezavisne Novine</i> and <i>Oslobodjenje</i>, which published the names of all individuals who were injured during the attacks.⁶ Organizers of QSF who were also victims of violence have not received any updates regarding the QSF 2008 investigation (last update was in October 2008), and subsequently were never called to give any statements.</p> <p>In 2009 Organization Q replaced the actual Festival with the awareness campaign to follow up 2008 Queer Sarajevo Festival. A short documentary film was recorded and screened in cultural</p>

³ http://www.ilga-europe.org/europe/guide/country_by_country/bosnia_herzegovina/attacks_at_sarajevo_queer_festivals

⁴ The Invisible Q-Organisation Q-Sarajevo, BiH, 2008

⁵ <http://www.humanrightsfirst.info/pdf/071217-discrim-hc-report-card-2007.pdf>

⁶ <http://www.amnesty.org/en/appeals-for-action/fears-violence-surround-sarajevo-queer-festival>

	<p>centers in different cities in BiH followed by discussions. During that period hate speech was documented on the web portal of Organization Q.</p> <p>In 2010, a transgender person was attacked in Tuzla on the grounds of gender identity. He didn't report the incident to anyone.⁷</p>
<i>Economic and social rights</i>	
<p>Discrimination/ Anti-discrimination policies</p>	<p>A comprehensive anti-discrimination law has been adopted in July 2009. In the parliamentary debates at the House of Representatives on 8 July 2009 and at the House of Peoples on 23 July 2009 amendments have been proposed to exclude sexual orientation from the list of protected grounds in the law. In response to it ILGA-Europe and IGLHRC addressed a joint letter to the Parliamentary Assembly of BiH urging the parliamentarians to ensure that the law provides protection from sexual orientation and gender identity discrimination.⁸ Eventually the law was adopted and provides protection on a number of grounds including sexual orientation. The implementation of the law is still to be seen.</p> <p>Homophobic and transphobic attitudes are deeply rooted in BiH leading to social discrimination and exclusion of LGBT people. This discrimination and exclusion is further exacerbated by the state's informal and formal support of homo/transphobic attitudes.⁹</p> <p>As mentioned in US State Department 2009 Human Rights Report on Bosnia and Herzegovina 'Gays and lesbians faced frequent harassment and discrimination, including termination from employment. In some cases, dismissal letters explicitly stated that sexual orientation was the cause of termination, making it extremely difficult for them to find another job'.¹⁰</p> <p>The research by Organization Q amongst LGBT community reveals that many LGBT people are 'not out' because of the fear of social discrimination and exclusion. Social discrimination</p>

⁷ Report by Organisation Q, 24 May, 2010

⁸ [http://www.ilga-](http://www.ilga-europe.org/europe/guide/country_by_country/bosnia_herzegovina/iglhrc_and_ilga_europe_letter_to_the_parliamentary_assembly_of_bih_regarding_the_law_against_discrimination)

[europe.org/europe/guide/country_by_country/bosnia_herzegovina/iglhrc_and_ilga_europe_letter_to_the_parliamentary_assembly_of_bih_regarding_the_law_against_discrimination](http://www.ilga-europe.org/europe/guide/country_by_country/bosnia_herzegovina/iglhrc_and_ilga_europe_letter_to_the_parliamentary_assembly_of_bih_regarding_the_law_against_discrimination)

⁹ The Invisible Q-Organisation Q-Sarajevo, BiH,2008

¹⁰ <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136023.htm>

and exclusion are further exacerbated by the State's informal and formal support of homo/transphobic views and attitudes in the country and openly homophobic statements by public figures.¹¹

In summer of 2009 the directors of Student Center Sarajevo and Student Dormitory of University in Mostar announced that the doors of both public institutions are closed for LGBT people.¹²

The Gender Equality Law of the Republic of BiH prohibits employment discrimination in the fields of advertisement, recruitment and dismissal, but it does not explicitly name sexual orientation.¹³ The Brčko District Labor Law is the only entity that expressly protects individuals from employment discrimination on the basis of sexual orientation.¹⁴

Meanwhile discrimination in employment on the grounds of sexual orientation and gender identity happens on regular bases. In the research by Organization Q, one individual stated that she was dismissed after her employer found out about her sexual orientation. Another individual was not hired because of her appearance /gender expression. People have also reported experiencing demeaning and verbally abusive comments while at work, mainly coming from colleagues.¹⁵

According the same research, one respondent have mentioned that an employee of a hospital have stated that 'they all have to be burned'. Another person noted how his doctor often tries to convince him that he should change and that many serious illnesses can steam from his sexual orientation. Other examples also reflected doctors' statements asserting that that homosexuality is a disorder, certain type of disease.¹⁶

There are also many reports of verbal and physical abuse by the police and failure to

¹¹ The Invisible Q-Organisation Q-Sarajevo, BiH,2008

¹² <http://www.queer.ba/en/content/fascism-student-dormitories>

¹³ Gender Equality Law, SG 16/03 from June 2003 Articles 1-3, available at <http://www.queer.ba/udruzenjeq/en/zakoni.htm#>

¹⁴ Labor Law of FBiH, Art 5 "a person seeking employment, as well as a person who becomes employed, shall not be placed at a disadvantage based on race, color, sex, language, religion, political or other opinion, national or social origin, property status, birth or any other circumstance (...)."

¹⁵ The Invisible Q-Organisation Q-Sarajevo, BiH,2008

¹⁶ Ibid

investigate the crimes perpetrated against LGBT people.

Most of the politicians and representatives of state and religious institutions in Bosnia and Herzegovina expressed complete ignorance, prejudices and derogation of the LGBT population, describing them as 'ill' and in the need for medical assistance.