



Recommendations to BiH Institutions on the protection of LGBT human rights based on the first regional LGBT conference “Advancing the Human Rights of LGBT People in the Western Balkans”

Sarajevo Open Centre and Open Society Fund BiH hosted a conference on December 16th, 2013 with the aim of sharing best practices for improving LGBT human rights in the Western Balkan region. Representatives from LGBT organizations and ombudsperson offices in BiH, Croatia, Serbia, Montenegro, and Macedonia were present, as well as those from international organizations, such as the OSCE Mission to BiH, the United Nations office in BiH, and some representatives of foreign embassies. We also invited all relevant BiH institutions such as Ministry of Human Rights and Refugees, the three members of the Presidency, human rights committees from multiple levels of parliaments, and the gender agency and entity gender centers. However, we received few responses and no one attended. We present a summary of lessons learned as a first step to transferring this experience to the local context, recognizing the fact that utilizing European Union integration processes is key for accomplishing all of the following recommendations.

1. Devise and implement *action plans or strategies* for ensuring the implementation of anti-discrimination legislation. BiH lags behind almost all other countries in the region in that it lacks an action plan for its anti-discrimination legislation; without such a plan, institutions cannot be consistently held accountable by civil society organizations and citizens. An anti-discrimination law was adopted in 2009, but local laws have not been harmonized to it, rendering it completely meaningless. Furthermore, hate crime has only been introduced into the criminal code of Republika Srpska, meaning that hate crime can be neither justly nor consistently prosecuted across BiH. Implementation strategies in Serbia and Montenegro have improved the ability of civil society organizations to hold institutions accountable and provide them with useful, quantitative recommendations. A representative from Equinet, the European Network of Equality Bodies, said that action plans make the operation of equality bodies much smoother.

Recommendation: BiH institutions should cooperate with NGOs to initiate the creation of an action plan, which should first and foremost push for the real implementation of 2009’s anti-discrimination law.

2. Increase visibility of *Ombudsperson offices and reporting mechanisms* for the reporting of cases of discrimination. A focus of the conference was the fact that discrimination is still sorely underreported despite the recent establishment of reporting mechanisms and ombudsperson offices. In Serbia, the Office of the Protector of Citizens has seen over 70,000 instances of contact over the past three years, but very few of them have been from LGBT people. BiH’s Office of the Ombudsperson has only seen four official reports of discrimination in the past year. While most Western Balkan countries have sufficient reporting mechanisms in place, they are underutilized due to distrust in public institutions and lack of visibility.



Recommendation: *BiH institutions should cultivate as many official partnerships with LGBT organizations as possible and publicize the resources available to the LGBT community. They should also increase the competences of the Ombudsperson's office and promote anti-discrimination mechanisms such as the Law on Prohibition of Discrimination.*

3. Improve existing legislation, specifically by including hate crime in the criminal code of the Federation of BiH. Compared to other Western Balkan countries, BiH is very behind in its improved, but still lacking legal framework for the protection of LGBT human rights. Serbia, Croatia, and Montenegro have already begun to legally address the issue of same sex marriage, and Montenegro has also adopted a health insurance law that includes coverage for transgender people – up to 80% of costs of the transition process are covered. Meanwhile, BiH does not even have a harmonized criminal code between the Federation and Republika Srpska – RS has included hate crime in its criminal code, whereas attempts to do so in the Federation were thwarted in the House of Peoples, a fact that has direct consequences for those who are victims of hate crime but cannot see the perpetrators brought to justice.

Recommendation: *BiH institutions should start by implementing a law that allows for the consistent prosecution of hate crimes. They should improve transgender rights by providing a straightforward legal path for changing one's personal documents, as well as ensuring that health insurance offers equal coverage for transgender individuals. Finally, BiH should take the first steps towards regulating same sex unions.*

4. Provide more direct services for LGBT people. Since 1 in 4 surveyed LGBT people in BiH¹ have been victims of physical violence, it is clear that the LGBT community is in need of services such as safe houses, an accountable police force, and reliable and non-discriminatory health care. Between 20 and 30% of the LGBT community has experienced discriminatory treatment at health care facilities.²

Recommendation: *BiH institutions should encourage cooperation between LGBT organizations and law enforcement, as well as provide funds for social services targeted at LGBT people.*

¹ Čaušević, Jasmina. *Numbers of Life*. http://soc.ba/soc/wp-content/uploads/2013/09/Analiza-istrazivanja-eng_web-verzija.pdf page 35, 2013.

² Ibid, pages 44-46