

SOC EQUALITY DEMANDS

WHAT ARE THE REQUESTS REGARDING LGBTI RIGHTS IN BIH (2019/2020)

1. SAME SEX PARTNERSHIP RECOGNIZED BY LAW

Bosnia and Herzegovina still has not passed the legislation that would regulate same sex partnerships and allow social and economic rights and benefits that are already exercised by heterosexual couples (social support, shared health insurance, inheriting partners pension, tax benefits in case one partner is unemployed, splitting the assets in case of separation and others). Non regulation of same sex partnerships is a direct violation of Constitution of BiH and rights guaranteed by the Constitution such as right to private, family life and home, right to marry and family life, right to liberty and security of person, right to property etc. as well as violation of European Convention on Human Rights.

- It is necessary the entities of BiH pass the laws that will legally acknowledge and regulate same sex partnerships.
- This legislation has to allow same-sex couples same rights that are guaranteed to heterosexual marital and cohabitation partners.
- Representatives of civil society need to be actively involved in the process of making this legislation

3. PROTECTING AND ENSURING THE RIGHT TO FREEDOM OF ASSEMBLY FOR LGBTI PEOPLE

Fear, high risk and lack of support by government bodies is main reason that Pride March has not been organized so far in BiH in spite of the need and wishes by the LGBTI community. Several public gatherings by LGBTI were interrupted by violence and those that were not, are regularly accompanied by threats, intimidation and hate speech towards LGBTI activists. Freedom of assembly and expression of LGBTI people is still violated mainly through obstructions by administration and requirements that are not prescribed by law or international standards.

- It is necessary to amend legislation that protects and regulate public assemblies in order to stop the misuse and arbitrary interpretation of law provisions by state administration.
- State institutions have to protect public assemblies of LGBTI people without imposing extra requirements on organizers for security and extra expenses.
- Freedom of assembly of LGBTI people has to be perceived and protected as a democratic mean for fighting for human rights.

2. ACCESSIBLE AND FAST SEX REASSIGNMENT PROCEDURE WITHOUT UNNECESSARY ADMINISTRATIVE BURDENS

It is not possible for trans* citizens of BiH to undergo sex reassignment procedures because medical facilities do not have medical workers educated and trained in this field. Medical institutions do not provide trans* specific health care. Trans* people are forced to go through medical procedures abroad and to cover the expenses by themselves for that reason. Changing sex marker in official documents is conditioned by going through full sex reassignment procedure which puts trans* people in difficult position and exposes them to additional violence and discrimination.

- Trans* people in BiH should be allowed to change sex marker on basis of their own self-determination without requiring to go through full sex reassignment procedure
- Medical process of sex reassignment should be accessible in BiH or the same procedure abroad should be covered by state's health insurance.
- Adequate health protection should be based on individual approach, fully respecting persons' dignity, privacy, body integrity and self-determination.

4. ADEQUATE PROTECTION AND SANCTIONING HATE CRIMES AND HATE SPEECH TOWARDS LGBTI PEOPLE

Hate crimes based on sexual orientation and gender identity are regulated by criminal codes of BiH but there are small number of cases that go through entire judicial process. Hate speech, specifically, incitement to hatred and violence towards LGBTI people is not defined in criminal codes of Federation of BiH and District Brčko. On the other side, Criminal Code of Republika Srpska contains those provisions. State institutions do not systematically document these criminal acts and the number of reported and processed cases is not known to public. Prosecutor's offices and police do not have institutionalized mechanism to cooperate and investigate these criminal acts which makes them even harder to process.

- It is necessary to include continuous and permanent education of police, prosecutors and judges on hate crimes and hate speech
- Police and prosecutors in BiH need to implement systematic internal procedures of cooperation when investigating these criminal acts in order to ensure quick and adequate investigation.
- Criminal codes of Federation of BiH and District Brčko should be amended in order to recognize hate speech towards LGBTI people.