

SARAJEVO OPEN CENTRE SUBMISSION TO ILGA-EUROPE ANNUAL REVIEW

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Experiences of homophobia and transphobia remain very common in Bosnia and Herzegovina with limited or no action taken by authorities to address such discrimination, harassment or violence. Occasional attacks against LGBTI human rights defenders and hateful comments in print, online and audio-visual media further fuel the atmosphere of intolerance against LGBTI people. Positively, police forces have also demonstrated increased willingness to take into account LGBT-specific issues, and in one of the Cantons of Federation of BiH, Canton Sarajevo, even to collaborate with civil society and Sarajevo Open Centre on their own sensitization, in the effort to increase the trust of LGBT persons in the governmental institutions and the number of reported cases.

Bias-motivated speech

Sarajevo Open Centre documented four cases of homophobic hate speech throughout the 2013.. Most of them were comments published on web portals and on news portals' Facebook pages; t one was a viewer's comments aired during a local TV show, and a few of them were actual articles published by an extremist's portal. All cases were reported to the institutions in charge, including the police. However, to date none have reacted or sanctioned the authors of these hateful comments.

The Law on amendments to the Criminal Code of Federation BiH did not include a provision on bias-motivated speech, but such provision is included in the Draft of the Law on amendments to the Criminal Code of Federation of BiH of the Parliamentary Women's Caucus which should be sent into the procedure in the beginning of 2014. The Republika Srpska and Brčko District

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don't have hate speech regulation in their Criminal Codes and there was no attempt to amend the Criminal Codes in that direction.

Bias-motivated violence

In July, parliamentarians in the House of Representatives of the Parliament of the Federation of BiH adopted the Law on amendments to the Criminal Code. Resulting directly from proposals by a coalition of activists including the Sarajevo Open Centre, the law proposal defines hate crime as any criminal act the predominated or sole motivation of which was hatred, hostility or prejudice towards the victim based on their real or assumed personal characteristics. The list of such characteristics explicitly includes sexual orientation and gender identity. However the law was not adopted in the House of Peoples of the Parliament of the Federation of BiH. The Republika Srpska and Brčko District do have hate crime regulation in the Criminal Codes since 2010.

A group of seven people, five of which human rights defenders from LGBTI organisation Okvir, was attacked within the protected area of the BiH Presidency building in Sarajevo in March of 2013.. Between 10 and 15 young men had followed the activists, and attacked them shouting "Kill the faggots!" and "Half foreigners, half faggots!" The victims withdrew the report of the attack to the police.

By the end of the year violence escalated, and in August of 2013 several gay men were robbed by a group of approximately four armed perpetrators, one of them (who was actually a gay man himself) would arrange a meeting through a gay dating site with them, and lead them into the area where he arranged for his straight and armed friends to await and steal the victim's possessions. One of the victims contacted Sarajevo Open Centre, consulted them and the police of Canton Sarajevo as well. The case is currently being processed by the prosecutors and the court trial is awaited.

In September of 2013 Sarajevo Open Centre was visited by a man who reported that he was assaulted the night before by a group of young men, approximately 5 of them, aged 18-25, who assaulted him physically and threatened to kill him because he was gay. This assault was a result of a 3

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years long verbal and emotional abuse he has been suffering from the same group of men, including throwing stones and objects at his house, insults, threats and intimidation. The case was reported to the police of Canton Sarajevo and is being investigated. This case later on escalated since the man who reported the case was later on harassed and physically assaulted which resulted in a severe hip injury and an urgent surgical procedure. While the victim was in the hospital, the police, based on photo recognition, arrested the perpetrators and forwarded the case to the prosecution. However the Prosecutor's office did not react on it yet.

Sarajevo Open Centre did document 18 hate crime cases during 2013 and in the research of the needs of LGBT community in Bosnia – Herzegovina conducted by SOC in 2013, it is discovered that gay man aged 20 to 30 who are out of the closet are the most exposed to violence. 69 % of them have lived through some kind of violence. They are followed by lesbians who are out – 62, 5 % of which have suffered from some form of violence, while more than half of bisexual persons who participated in the research have lived through violence.¹

Data collection

In 2013. in the edition Ljudska prava of Sarajevo Open Centre (SOC) a publication titled Brojevi koji ravnopravnost znače was published. This is an analysis of the research results on the needs of LGBT persons in Bosnia and Herzegovina.

The research included **545 persons, aged 15-54**. When it comes to sexual orientation, 338 persons declare themselves as homosexual, 151 are bisexual, 25 are pansexual, 7 persons are asexual, 9 are heterosexual, and 15 persons have answered with “other”, adding their understanding of their sexuality.

Answers to the question “which persons from your surrounding know/don't know that you are an LGBT person?”, establish that for 90,4% of LGBT persons, their friends know about their identity and a great majority of their friends supports them (89,2%) Also, work/school colleagues more often than members of the family know that the person is LGBT.

¹ Numbers of life. Analysis of the results of the research on needs of LGBT community in Bosnia – Herzegovina. http://soc.ba/soc/wp-content/uploads/2013/09/Analiza-istrazivanja-eng_web-verzija.pdf

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To the question “have you been subjected to some kind of discrimination because of you’re an LGBT person”, 35,8% have answered with yes, and 63,1% with negative answer. It is clear that the persons who are not out to the general public at work, in college, to their acquaintances etc – cannot be discriminated on the basis of their sexual orientation.

The research shows that the 40,7% of colleagues at work/school know that the person is LGBT, **but almost half of them are not supportive at all.**

Discrimination is not reported in 93,8% cases. Only 3 cases of discrimination were processed one case ended successfully, and 23 cases that were reported were never processed. Because of their gender expression of sexual identity, 23,5% of persons have been subjected to violence, and 74,2% of persons have never been subjected to violence. **Every third person was subjected to physical violence, and almost every fifth to sexual violence. The victims of violence are almost always persons who are out.**

Every third person that feels depression, fear, anxiety or other symptoms, decides to seek out professional psychological, psychiatric or the help of a therapist, and the reasons most often cited are related to the assumed incompetence of the persons they would approach or to the fear that their sexuality would be revealed.

Almost 70% of the persons singled out insufficient support from family and friends as the biggest problem. Although 85,2% of LGBT persons don’t have to hide their gender identity and sexual orientation in front of their friends, it is obvious that the most are not receiving emotional, psychological and social support they desire.

Diversity

In December of 2013., Sarajevo Open Centre, with several other civil society organisations, organised a diversity march in Sarajevo, on the occasion of the International Human Rights Day. The gathering went without any problems and disturbances and the police followed the participants the whole time, ensuring their safety. The aim of this gathering and the protest was to raise the awareness of the public and government to the constant violations of human rights occurring to different endangered categories of the BiH society. The participants of the march protested in front of several governmental institutions and read out loud the demands for better protection of the human rights of women, people with disabilities, ethnic minorities, LGBT persons, children, etc.

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Education

In November of 2013, Sarajevo Open Centre, in partnership with the Heinrich Böll Foundation, BiH Office and the CURE Foundation organised the training (R)educ(a)tion of Homophobia and Transphobia in High Schools in Bosnia and Herzegovina. The participants were the psychologists and pedagogues of the high schools in entire BiH, and showed willingness to use the gained knowledge in their own schools and take more active role in combating homophobia and transphobia. Unfortunately this training was supported by neither the Ministry of education nor the Pedagogical institute, which did not reflect negatively on the training, since SOC received more than 40 applications for it.

However the individual commitment of the school staff to combat discrimination, homophobia and transphobia lacks the support of the governmental and school authorities, on the 29th of November, a group of informal LGBTQ activists from Tuzla reported to SOC, that the staff of a high school was disseminating propaganda and promoting discriminatory ideas against LGBT persons, by putting up poster around the school from an organisation fighting against marriage equality in Croatia. The school pedagogue and psychologist went from one fourth classes to another inciting student who possesses Croatian citizenship to go and vote on the referendum and make a natural and moral decision by voting for the definition of marriage as union between man and a woman to be adopted into the constitution. The case was reported to ombudsperson, the ministry in charge and the school. Ombudsmen's office is currently investigating the complaint, and the school authorities even though they received the complaint did nothing to sanction the responsible person.

Education, schools and faculties remain one of the places where LGBT persons are most discriminated, in the research of SOC, approximately 36% of the examinees are experiencing discrimination in their schools or faculties. In the research named *Homophobia in schools* conducted by organisation Kosmos in December of 2012, on 439 high school students, 19,58% stated that they believe verbal violence towards homosexuals is justified and 18,90% approve of physical violence towards homosexuals. This research also revealed that prejudice are deeply rooted among these teenagers and that 51,02% of students believe homosexuality is a disease,

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54, 89% believe it is unnatural and 73,13% think it should be kept between four walls.

Equality and non-discrimination

The Ombudsperson's office has expressed willingness to cooperate with non-governmental organisations to implement the anti-discrimination law, including on the basis of sexual orientation and gender identity. However, the office is under-resourced and the awareness-raising actions that Ombudsperson's office should undertake are not being implemented, the Ombudsperson's office uses its lack of resources as an excuse not to participate in the events that promote tolerance and antidiscrimination of LGBT persons, and have refused to be patron of the first Regional conference Sarajevo Open Centre and Open Society Fund of BiH were organizing in Sarajevo on advancing the human rights of LGBT persons, even though they were not expected to participate financially in it. They were also beneath the level of their usual willingness to cooperate during the preparations of the Conference, and have only disclosed the name of their representative who participated in the Conference, two days before its start.

In March, a landlord turned down a young lesbian woman after finding out her sexual orientation, despite her flatmates' willingness to share the apartment with her. She reported this case to the Sarajevo Open Centre.

In the end of the November, just before the referendum on marriage in Croatia, a psychologist in one catholic school centre in BiH, tried to incite the students with the Croatian citizenship to vote yes on the referendum and do their "moral and human duty by preventing gay marriage". This case was reported to Sarajevo Open Centre by a group of informal activists and was reported to the school authorities and the Ombudsperson's office since it was a clear violation of the Anti-discrimination Law of BiH and incitement to discrimination. The Ombudsperson's office is currently investigating the complaint.

Our research shows that lesbians aged 20 to 30 are the most exposed to discrimination in BiH, with 74% of this age group having experienced some form of discrimination. They are followed by gay men in the same age group – 69, 8% of them had experienced some form of denial of rights. A significant number of bisexuals – 61% - from this same group have also experienced some form of discrimination.

Persons who have experienced discrimination and decided to report it, have done so in a human rights nongovernmental organization – 3 (0, 5 %), Office

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of the Human Rights Ombudsman in BiH – 3 (0, 5 %), to an attorney: 2 (0, 4 %). Those who have reported discrimination to someone else, 10 (1, 8 %) have added: the donor of the organization, to the organizers of Zagreb Pride, to a pedagogue, police, through the private complaint and to the school psychologist.

Only 3 (0.5 %) cases of discrimination have been prosecuted, one of them is still ongoing (0, 2 %) and 23 (4, 2 %) cases that have been reported have never been processed. Only 1 case (0.2 %) was completed successfully, one (0, 2 %) is still lasting, while other processes have been settled through different manner: finding an excuse for getting fired from work after three years of engagement for an NGO, being said that one should change his/her behaviour and that it is his/her fault

Freedom of assembly

LGBT association from Sarajevo had announced in October of 2012, that they will make a flash mob action, named We are everywhere. For this action they planned a peaceful assembly on the 21st of October, in front of the Presidency building, followed by a short walk to the Cathedral. This action was supposed to indicate the invisibility of LGBTIQ individuals as well as the necessity to recognize the right of every person to its gender identity and sexual orientation, and publicly condemn discrimination, homophobia, transphobia, violence, hate speech and isolation of LGBTIQ individuals. This action was previously announced to the police according to the legal procedure. On the 19th of September police informed that their action cannot be held, because the legal procedure for informing the police about the planned gatherings and manifestations has changed. According to the police the association was supposed to inform them about their action 14 days in advance which was stated in the new Law on public gathering, and the association informed the police only 7 days before the planned day of the action, according to the previous Law. However the only publicly available Law on public gathering, published on the website of the Ministry of internal affairs, clearly states that planned peaceful public gatherings should be reported to the police only 5 days before the day of the gathering.

However few months later, in December, Sarajevo Open Centre, with several other civil society organisations, organised a diversity march in Sarajevo, on the occasion of the International Human Rights Day. And even though the

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police primarily assumed that this organisation was an attempt of a Pride Parade, they organised themselves and ensured adequate and even excessive protection to prevent any kind of danger that might occur since LGBT organisations and persons were as well included in the march. The gathering went without any problems and disturbances and the police followed the participants the whole time, ensuring their safety.

Legal gender recognition

Legal gender recognition in Bosnia and Herzegovina is regulated by the laws on registry books of the entities; both the Law in Republic of Srpska and the Law in Federation of BiH predict legal gender recognition as a basis for the change of documents. However the Law on registry books of Brčko District does not include legal gender recognition as a basis for document change, and these cases are still being treated as a mistake written in at birth. The complaint against the registry office for discrimination of trans persons has been submitted by the Sarajevo Open Centre to Ombudsmen's office.

Police and law enforcement

Sarajevo Open Centre initiated cooperation with the police in the fall of 2012, through its project of putting up posters in police stations throughout BiH, which would state that LGBT persons are welcome there and no discrimination on the grounds of sexual orientation and gender identity will be allowed within these institutions, one of the ministries which accepted this cooperation and accepted to put up the posters, the Ministry of internal affairs of Canton Sarajevo, later initiated a meeting between Sarajevo Open Centre and the representatives of the police. This meeting initiated mutual cooperation on sensitization of police officers for the work with LGBT persons and on LGBT related cases. This cooperation was already tested in practice through a mutual work on a hate crime involving an LGBT person. Cooperation on the case of hate crime was more than promising, since the police officers actually took great care and acted very professionally with the victims, and were doing their best to increase the trust of the individuals as well as of the other LGBT persons in the law enforcement institutions.

As one of the greater results of the cooperation with the police and the Ministry of internal affairs of Canton Sarajevo, Sarajevo Open Centre has organized training for the police officers who work with the community. This training included 20 police officers; and the police officers in question are

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the ones who are usually the first ones to receive the victim and receive the report of a case.

The training lasted two days and consisted out of the first general part aiming to tackle the prejudice and explaining the proper and correct terminology, identities and history of LGBT persons, and a human library consisting out of local representatives of LGBT persons responding to the various questions of police officers. The second part of the training focused on hate crime, the general presentation of these crimes and the presentation of individual local and regional cases in order to raise the awareness of the police officers on the necessity to establish the relationship of trust with LGBT persons and encourage these persons to report the cases in order to process them and effectively work on their diminishing.

This training resulted in a somewhat organized network of police officers which will be in contact with Sarajevo Open Centre and cooperate on the cases of hate crime reported to Sarajevo Open Centre and receive the victims with proper care and professionalism.

It is important to emphasize that Sarajevo Open Centre has only worked and cooperated with the individual police officers already working in the community in the Canton Sarajevo, which is just one of the cantons of Federation of BiH, and has not yet initiated the cooperation with the police academies on the education of the police personnel.

Public opinion

The Heinrich Boll Foundation – BiH, the CURE Foundation, and SOC are implementing the project: “Coming Out! Advocating for the Promotion and Protection of LGBT Rights,” financed by the European Union. Part of the project is a quantitative research project done throughout BiH in order to better understand the reasons behind homophobia/transphobia and discrimination on the basis of sexual orientation and gender identity in BiH. This public opinion research project was completed using the responses from 1010 participants. All the results are presented in the book, “Who are we to Judge Others? A Public Opinion Survey on Opinions About Homosexuality and Transgenderism in BiH.” The book also includes a thorough analysis of the results in a Bosnian context.

The research showed a very low level of sensitization throughout the general population towards lesbians, gays, bisexuals, and transgender (LGBT) people, as well as insufficient knowledge about the problems that LGBT people face. 56.5% of the respondents said that “homosexuality must be

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cured,” which is evidenced by a lack of knowledge and entrenched stereotypes about homosexuality, which was removed from the list of illnesses and social disorders. For three fourths of the respondents, same-sex kissing in public is unacceptable, whereas having a sex change is considered repulsive by 59.5%. A certain degree of tolerance of LGBT people can be assumed considering the fact that more than 90% of respondents said that they would not use physical or verbal violence against LGBT people. 75.6% said they wouldn’t stand and watch passively; they would help an LGBT victim of violence.

The public opinion survey showed the gender and education are the most important factors that affect a person’s level of homophobia. Women have considerably more liberal opinions about homosexuality compared to men, as well as do those who live in urban settings as compared to those who live in a rural environment. If you take age into account, younger participants are a lot more tolerant and open towards LGBT people than older participants.

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