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PINK REPORT

Annual Report on the
State of Human Rights
of LGBTI Persons in
Bosnia and Herzegovina

2018 Pink Report

Annual Report on the State of Human Rights of
LGBTI Persons in Bosnia and Herzegovina

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2018 PINK REPORT

ANNUAL REPORT ON THE STATE OF HUMAN RIGHTS
OF LGBTI PERSONS IN BOSNIA AND HERZEGOVINA

SARAJEVO, 2018

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THE LIST OF ACRONYMS

ADL	Anti-Discrimination Law
BiH	Bosnia and Herzegovina
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
ICCPR	International Covenant on Civil and Political Rights of the United Nations
ICESCR	International Covenant on Economic, Social and Cultural Rights of the United Nations
LGBTI	lesbian, gay, bisexual, transgender and intersex (people)
PA BiH	Parliamentary Assembly of Bosnia and Herzegovina
SOC	Sarajevo Open Centre
SOGISC	sexual orientation, gender identity and sex characteristics
UDHR	Universal Declaration of Human Rights of the United Nations

ON-GOING PRACTICE OF HUMAN RIGHTS VIOLATIONS

Domestic Violence against LGBTI Persons

In 2017 Sarajevo Open Centre recorded **11 cases of domestic violence**. They included threats and blackmailing, unlawful deprivation of freedom and restriction of movement, violence, bodily injury and involuntary medical treatment. In all of these cases, violence was mostly perpetrated by either parents, brothers or sisters, with the support of the extended family.

The most extreme case involved violence over a prolonged period committed daily by the mother and father, who took advantage of the fact that the person was economically dependent and could not simply leave the family home. The violence started at an early age, after the person's coming out, and became entrenched as permanent family dynamics.

Alarming, the existing system for combating domestic violence is ill-suited to handle such cases. Also, even though there are civil society organisations that are ready to provide shelter for lesbians in safe houses, there is no accommodation for gay men and transgender persons who are victims of domestic violence. This problem needs to be addressed systematically as it could lead to homelessness among young LGBTI persons, due to their vulnerable position.

Peer Violence Against LGBTI Persons in Schools

Eight cases of homophobic and transphobic peer violence were recorded in 2017. The cases varied from homo/transphobic remarks to physical violence. The staff of education institutions generally failed to react and sometimes even joined in mocking the victim.

Some cases were reported to the relevant ministries of interior and social welfare centres, but the lack of an institutional plan to combat peer violence and develop an inclusive, tolerant learning environment that incorporates the LGBTI perspective is still evident.

It is necessary to change school curricula and textbooks that contain false or harmful information about LGBTI persons, and introduce the human rights of LGBTI persons, as well as ways to prevent and combat peer violence, into

teacher training programmes, thereby raising awareness on how to work with this particular social group. Furthermore, education institutions should work with social welfare centres, psychologists/pedagogues and ministries of interior to design programmes to prevent and address peer violence, with particular emphasis on protecting the victims, especially those from marginalised social groups, as well as rehabilitating the perpetrators.

Restricting Freedom of Assembly during Commemoration of International Transgender Day of Visibility

In mid-March 2018, Sarajevo Open Centre filed a request with the Centar Municipality, seeking permission to hold a public event on the square in front the BBI centre. The event was supposed to commemorate International Transgender Day of Visibility. Transgender persons are among the most marginalised social groups and the idea was to raise awareness on the problems they face. Since the square belongs in part to the municipality and in part to BBI Centre, the Municipality requires the applicants to obtain permission from BBI Centre as well. Representatives of BBI Centre responded in an email, saying they could not grant permission for the activity because of a larger event already booked for that day, and because **they could not “grant permission for so-called high risk activities that require additional security for both the building and third parties.”** When asked to further explain how it conducted the risk assessment, BBI Centre did not respond. Sarajevo Open Centre had already organised an event in front of the BBI Centre, with the support of the Ministry of Interior of Sarajevo Canton, without any security concerns or any other problems whatsoever.

After a negative response from BBI Centre, we contacted the National Theatre and asked for permission to organise the activity on the Susan Sontag Square. In its response the National Theatre emphasised it gave **“permission only for cultural and artistic events”** and that **“the historic building of the National Theatre is a national monument”**, adding that it could not **“give permission for events that require special security measures”**. The square in front of the National Theatre is public property and is not owned by the National Theatre – itself a public institution. During a phone conversation with a member of Sarajevo Open Centre, the director of the National Theatre said: **“It is inappropriate to carry out this performance in front of the National Theatre because the banners you will be holding carry negative connotations!”**

According to the Law on Freedom of Assembly of Sarajevo Canton, only the Ministry of Interior of Sarajevo Canton can carry out risk assessments concerning public assemblies. The procedures of Centar Municipality are grounded in the Law on Temporary Use of Public Surfaces in Sarajevo Canton, but it should be noted that this Law does not apply to assemblies and similar events. **Centar Municipality thereby enables individual institutions and legal entities to interpret the Law on Public Assembly of Sarajevo Canton in a way that violates the provisions of that very same Law, and use discriminatory criteria to determine which group of citizens gets access to public space that by definition belongs to all citizens.**

Sarajevo Open Centre has lodged complaints with the Institution of the Ombudsperson concerning the decisions of the National Theatre and BBI Centre and we expect the Ombudsperson to issue recommendations, clearly indicating the harmful and unlawful nature of the conduct of these two institutions.

GOOD PRACTICES

Trainings for Prosecutors at the Prosecutor's Office of Sarajevo Canton and the Appointment of a Point of Contact for Crimes against LGBTI Persons

In November 2017, Sarajevo Open Centre established for the first time direct cooperation with the cantonal Prosecutor's Office of Sarajevo Canton. The cooperation began with a training on hate crime for 32 prosecutors and technical assistants of the institution. This was the first time that a judicial institution organised a training for such a large number of employees. One of the goals was to raise awareness and introduce the prosecutors to effective methods of protection and prosecution of human rights violations on the grounds of sexual orientation, gender identity and sex characteristics in BiH, in accordance with domestic legislation, as well as international and regional legal standards.

The cooperation resulted in the **appointment of a point of contact – a cantonal prosecutor – for LGBTI hate crime victims**. The appointment of a point of contact at the cantonal Prosecutor's Office of Sarajevo Canton for hate crimes committed on the grounds of sexual orientation and/or gender identity means that LGBTI persons who have experienced violence can go directly to the Prosecutor's Office and report violent incidents to the appointed prosecutor. It has also served as a catalyst for the **long overdue court case before the Municipal Court in Sarajevo relating to 2014 Merlinka Festival attack**.

Cooperating with the Ministry of Labour, Social Policy, Displaced Persons and Refugees of Sarajevo Canton to Raise Awareness among Local Institutions on how to Work with LGBTI Persons

In 2017, **Sarajevo Open Centre for the first time established cooperation with the Ministry of Labour, Social Policy, Displaced Persons and Refugees of Sarajevo Canton**. The cooperation resulted in trainings for representatives of the Ministry and its corresponding institutions. We also began working with the Ministry on developing measures for equal human rights of women and LGBTI persons in Sarajevo Canton. These measures should enhance the quality of life of women and LGBTI persons and protect them from discrimination on an institutional level.

Trainings for social workers, psychologists, psychiatrists and civil servants at public institutions under the Ministry's authority have helped raise awareness on how to work with LGBTI persons and improved their understanding of the detrimental effect of social stigma (prejudice, discrimination, violence) on the quality of life and well-being of LGBTI persons. They were also able to learn how false information about LGBTI persons and attitudes steeped in prejudice can affect their work with LGBTI persons and their family members.

Ministry of Interior of Tuzla Canton Acted upon the Recommendation from the Institution of the Human Rights Ombudsperson of BiH Concerning Name Change of Transgender Persons

In November 2017, the Institution of the Human Rights Ombudsperson of BiH issued a recommendation saying that **entity-level laws on personal name enable everyone to obtain a name change, even if the socially determined gender of the name and the gender marker on the person's documents do not correspond.**

The recommendation was issued after Sarajevo Open Centre and Tuzla Open Centre lodged a complaint with the Institution of the Ombudsperson concerning the discrimination of a transgender person who was denied a name change by the Ministry of Interior of Tuzla Canton.

Upon receiving the recommendation, **the Ministry carried out the name change, in accordance with the Law on Personal Name of FBiH.** The Institution of the Ombudsperson sent the recommendation to all ministries of interior in BiH, in order to prevent similar situations in the future.

EXECUTIVE SUMMARY

The legislative framework for protecting the human rights of LGBTI persons and ensuring their equality has improved somewhat in the past three years. However, our research on the needs and problems of the LGBTI community in BiH conducted in 2017 has shown that hate speech, discrimination and violence against the LGBTI community are still a widespread occurrence.

LGBTI persons are often unable to lead a normal life or meet basic human, social or cultural needs (e.g. be open about their romantic relationships, express their gender, etc.). The fear of violence, discrimination and/or exclusion frequently results in extreme self-isolation and reluctance to engage in certain cultural or social activities, express one's views, etc.

The results of monitoring discrimination and violence throughout 2017 show that transgender persons are particularly vulnerable. Even media reporting, which is usually neutral, took a sensationalist tone and focused exclusively on the sex-reassignment process, instead of the transphobic environment and its effects on the life of transgender persons in Bosnia and Herzegovina.

The negative trend of growing domestic violence and peer violence on the grounds of SOGISC continued in 2017. There is still no concrete, institutional plan to combat peer violence and develop an inclusive, tolerant learning environment that incorporates the LGBTI perspective.

Restricting freedom of assembly of LGBTI persons through administrative obstacles on the local and cantonal level is the most alarming trend. If it continues, this trend could seriously jeopardise and limit the work of LGBTI activists and civil society organisations that work on protecting the rights of LGBTI persons.

Unfortunately, the growing violence, discrimination and restriction of the rights and freedoms of LGBTI persons elicited only sporadic responses from most institutions in charge of protecting and promoting human rights, including the rights of LGBTI persons. This creates a climate in which alleged security issues, assessed by various social actors who should not and cannot make decisions impacting people's rights and freedoms, take precedence over protecting the rights and freedoms of LGBTI persons and ensuring equal treatment.

The lack of a systematic, quick and adequate response from the authorities may further undermine the faith of LGBTI persons in the institutions, especially those most responsible for protecting human rights: the police and judiciary, as well as local institutions in charge of providing services to LGBTI citizens.

PRIORITY MEASURES TO BE UNDERTAKEN

Appropriate Regulation of Hate Crime and Incitement to Hatred and Violence in Federation BiH and Brčko District Criminal Codes

As a member of the Coalition for Combating Hate Speech and Hate Crime, Sarajevo Open Centre has been advocating the regulation of hate crime, but also incitement to hatred and violence since 2013. In 2017, Sarajevo Open Centre together with the Gender Centre of Republika Srpska worked to include the amendments of the Coalition into the Draft Law on Amendments to the Criminal Code of Republika Srpska, adopted in July 2017. The amendments proposed by the Coalition include the broadening of the criminal offence of *incitement to national, racial and religious hatred, discord and hostility* so that in addition to the current three grounds, it encompasses all the protected characteristics stipulated for the criminal offence of hate crime.

It is expected that after Republika Srpska, the Federation BiH and Brčko District will regulate incitement to hatred and violence equally, to prevent impunity in relation to these criminal offences against LGBTI persons and other marginalised groups.

Same-sex Partnership Law(s) and Gender Identity Law(s)

Same-sex couples are a reality in Bosnia and Herzegovina and a part of its society, despite the fact that the existing legal framework fails to recognise them and keeps ignoring their mutual relations. As a Member State of the Council of Europe striving to accede to the EU, BiH will have to establish a legal framework which would regulate family rights of same-sex couples. The European Court for Human Rights has ruled on multiple occasions that same-sex partnerships are covered by the provision on protection of family life and that states have to guarantee at least the same level of legal protection to same-sex partnerships that they offer to heterosexual civil partnerships. In addition, the Constitution of BiH stipulates that the European Convention on Human Rights and Fundamental Freedoms is directly applicable in BiH and prevails over all other laws. Therefore, the institutions of BiH and its entities are bound to regulate same-sex partnerships.

Transgender persons in BiH are discriminated against in many areas of life on the basis of their gender identity and gender expression, and they face a legal vacuum in terms of regulation of sex change. Transgender persons in BiH can only change the sex marker in their official documents and Unique Master Citizen Number after they have completed medical transition; both the endocrine therapy and the surgical procedures have to be undergone abroad, because they cannot be

performed in BiH, and the cost is not covered by the state-funded health insurance. It is imperative that BiH, its entities and Brčko District regulate the legal aspects of sex change so that laws can be passed which explicitly and systematically regulate the procedures of name change, sex marker change and Unique Master Citizen Number in all personal documents, and they need to enable transgender individuals to change their sex marker without waiting to complete the medical aspects of transition, in order to end discrimination against them.

Freedom of Assembly of LGBTI Citizens

Freedom of assembly of LGBTI persons was violated several times during 2017 and at the start of 2018. These violations point to larger systematic and legislative shortcomings that need to be addressed. In March 2017, administrative silence and clear reluctance of the Ministry of Transport of Sarajevo Canton to act in a timely fashion and issue a permit for the march protesting the violence against LGBTI persons led to a violation of freedom of assembly of LGBTI persons in Sarajevo Canton. In **March 2018, BBI Centre and the National Theatre did not allow Sarajevo Open Centre to organise a performance commemorating the International Transgender Day of Visibility on the Children of Sarajevo Square, i.e. the Susan Sontag Square.** Both BBI and the National Theatre cited “high risk” as one of the reasons behind their decision.

Transferring the responsibility to ensure and protect freedom of assembly of citizens of Sarajevo Canton onto institutions and legal entities not in charge of such matters has created a situation in which legal entities take it upon themselves to conduct risk assessments, despite this being exclusively the authority of the Ministry of Interior of Sarajevo Canton, as per the Law on Freedom of Assembly of Sarajevo Canton. The procedures of Centar Municipality are grounded in the Law on Temporary Use of Public Surfaces in Sarajevo Canton, but this Law does not deal with public assemblies or the citizens’ unobstructed access to public surfaces, which means it is not applicable to assemblies and events of this kind.

It is necessary to adopt a law on freedom of assembly at the level of FBiH. Furthermore, the laws of the entities and Brčko District should clearly state that **only one competent authority** (the body in charge of interior affairs) **can make decisions about public assemblies**, i.e. that the notification form submitted to the police should just state whether or not the assembly will require street closures, so that the police could take the information into account and prepare accordingly together with the relevant ministry of transport. These laws should also clarify that **laws/provisions on temporary use of public surfaces cannot apply to peaceful assembly of citizens and associations of BiH**, nor can such public assemblies depend upon the approval of institutions/other legal entities that use the public space where the assembly is supposed to occur.

EQUALITY AND COMBATING DISCRIMINATION

International Legal Standards and the Obligations of Bosnia and Herzegovina

The principle of non-discrimination defined in the *Universal Declaration of Human Rights* (UDHR), the *International Covenant on Civil and Political Rights* (ICCPR), the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) of the United Nations, as well as the *European Convention for the Protection of Human Rights and Fundamental Freedoms*¹ indirectly refers to LGBTI persons through the *other status* or the open list of specific characteristics of individuals and groups. *The Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) is particularly relevant for the protection of lesbian, bisexual and transgender women, as it affirms intersectionality as the basic principle that establishes a mutual connection between discrimination of women on the grounds of gender and sex and, among other things, sexual orientation and gender identity.

Recommendation CM/Rec(2010)51 of the Committee of Ministers of the Council of Europe on measures to combat discrimination on the grounds of sexual orientation or gender identity is the most concrete international document defining the assessment and revision of current legislative and other measures, their efficient implementation in the fight against discrimination, the collection and analysis of relevant data concerning discrimination, as well as measures designed to ensure that discrimination victims are informed about their right to an efficient legal remedy and access to government bodies, in addition to ensuring that anti-discrimination measures include, where appropriate, the sanctioning of rights violations and adequate compensation for discrimination victims.

The documents listed above are the foundation upon which legislation and public policies in BiH are designed or amended, since they occupy a significant place in the legislative system of Bosnia and Herzegovina, a country that is a member of regional and international organisations. These documents set a standard that should lead to equality and reduce the discrimination against LGBTI persons in BiH.²

¹ According to Article 2 (2), the rights and freedoms defined in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols are directly implemented in Bosnia and Herzegovina. These acts are akin to constitutional norms and take precedence over all other acts.

² The international framework regulates other areas as well and it is not explicitly mentioned in other chapters.

Domestic Legal Framework

Sexual orientation, gender identity and sex characteristics, important bases for LGBTI persons, have not been included in the exhaustive list of characteristics protected against discrimination by Article 2 of the Constitution of Bosnia and Herzegovina.

However, the prohibition of discrimination of LGBTI persons is regulated by two systemic laws: 2003 **Law on Gender Equality in BiH** and 2009 Anti-Discrimination Law. While the **Law on Gender Equality** which prohibits discrimination on the basis of “sexual expression and/or orientation” is declarative in nature³ in the context of protecting LGBTI persons against discrimination, the Anti-Discrimination Law offers comprehensive protection against discrimination in all aspects of public life, including education, employment, healthcare, provision of services, etc. By adopting the amendments to its Anti-Discrimination Law in 2016, **sexual orientation and gender identity have finally been accurately formulated** and “sex characteristics” have been added to the list of protected characteristics, thus the Law finally explicitly regulates the protection of lesbian, gay, bisexual, trans* and intersex (LGBTI) persons from discrimination.

Although there is an obligation to harmonize all laws with the Anti-Discrimination Law, many laws at the state, entity and cantonal level do not include sexual orientation, gender identity and/or sex characteristics as the grounds protected from discrimination. It is of particular concern in the context of LGBTI human rights that laws on labour and employment, social and health insurance, *inter alia*, provide for a much more restrictive list of characteristics protected from discrimination than is the case with the Anti-Discrimination Law of BiH.

Institutional Action

Although the institutional anti-discrimination framework remains weak⁴, there have been some forward strides (albeit slow, insufficient and reactionary) when it comes to protecting LGBTI persons from discrimination.

³ Although the Law on Gender Equality mentions “sexual expression and/or orientation” it does not set forth the mechanisms for the protection of LGBTI persons from unequal action, while the Anti-Discrimination Law through the protection against discrimination covers all areas of the public and some areas of the private life, and also defines different forms of discrimination, in addition to clear mechanisms of protection.

⁴ The Ministry of Human Rights and Refugees of Bosnia and Herzegovina is yet to establish a central database of discrimination cases, even though ADL was adopted eight years ago. The Rulebook on Collecting Data on Discrimination Cases in Bosnia and Herzegovina was adopted in 2013.

In 2017, the **Joint Committee on Human Rights of the Parliamentary Assembly of Bosnia and Herzegovina** hosted a thematic session to commemorate 17 May. The session focused on the state of human rights of LGBTI persons in BiH, particularly the issue of legal recognition of sex reassignment. It was also an opportunity to discuss the Special Report on the Rights of LGBTI Persons in BiH and the report “Being LGBTI in BiH – Report for BiH” by UNDP in BiH. Upon the initiative of MP Damir Arnaut, the Committee adopted a conclusion during its 39th session held on 30 May 2017, asking the Ministry of Human Rights and Refugees of BiH to deliver all information regarding the failure to organise the march “Violence is not Normal”.

In 2017, the **Gender Equality Agency of Bosnia and Herzegovina** further cemented its role as an institution that not only deals with gender equality issues, but also works intensively on the rights of LGBTI persons. This is evidenced by the public appearances of representatives of the Agency who always unequivocally state their support for the rights and freedoms of LGBTI persons, the inclusion of measures aimed at capacity-building and awareness-raising among representatives of state institutions, as well as spearheading the process of producing the Action Plan for Equality of LGBTI Persons. Upon the request of the Joint Committee on Human Rights of PA BiH, the Agency presented information about the march “Violence is not Normal” during the 45th session of the Joint Committee.⁵

Although limited resources prevent the **Institution of the Ombudsperson of BiH** from independently carrying out its role of human rights promoter in the full scope defined by the second strategic objective of its Operational Strategy, the Institution still receives complaints and issues recommendations, thereby fulfilling its role of human rights protector. The Institution received **7 complaints concerning discrimination or rights violations against LGBTI persons** in 2017, and issued two important recommendations: a recommendation to the Ministry of Transport of Sarajevo Canton (and the Ministry of Interior⁶) whose passivity and administrative silence led to the cancellation of a march protesting violence against LGBTI persons that was initially scheduled for May 2017, which constituted a violation of freedom of assembly; and a recommendation issued to the Ministry of Interior of Tuzla Canton for its refusal to grant a name change to a transgender person, which the Institution deemed as discrimination.⁷

According to research findings, LGBTI persons do not trust the judiciary, nor do the institutions work on earning the trust of the LGBTI community. Only 14.5% of LGBTI persons in BiH trust the judiciary. Potential homophobia/transphobia among employees of the judiciary is cited as the main reason for the lack of trust (75.5% of respondents). The fear of not receiving adequate protection,

5 Information available at http://static.parlament.ba/doc/102520_Informacija%20MLJP%20.pdf. Accessed on 13 April 2018.

6 A detailed description of the case and the recommendation can be found in the chapter on Freedom of Assembly.

7 A detailed description of the case and the recommendation can be found in the chapter on the Rights of Transgender Persons.

lack of awareness among the staff on how to work with LGBTI persons and incompetence were also cited by most respondents as reasons not to trust these institutions. Corruption (1.94%), the duration and complexity of procedures (1.29%) were also recognised as problems that undermine faith in the judiciary.⁸

Judges around the country have little or no training regarding the Anti-Discrimination Law in BiH. The largest issue is the lack of mandatory formal training for judges and prosecutors about discrimination and the rights of LGBTI persons. Except for those organized by the civil society organisation, there are no trainings at all on the rights of LGBTI persons. In 2017, Sarajevo Open Centre trained 6 judges on the specificities of discrimination on grounds of SOGISC.

Implementing the Recommendations in the Special Report on the State of LGBT Rights in Bosnia and Herzegovina by the Institution of Human Rights Ombudsperson of Bosnia and Herzegovina

In September 2016, the BiH Institution of Human Rights Ombudsperson published a **Special Report on the State of LGBT Rights in Bosnia and Herzegovina**. The goal of the report was to analyse the current state of affairs and the actual level of access to human rights available to members of LGBT community, to inform the competent bodies on the measures they need to take to improve the position of this population, and to raise the awareness of citizens in Bosnia and Herzegovina and inform the public about the degree to which LGBT rights are exercised.

In the conclusion to the Special Report, the Ombudspersons of BiH gave a series of recommendations in a number of different areas. **Of the 12 recommendations addressed to the institutions and government bodies on various levels, 8 have not been implemented, nor are there signs that relevant institutions are working on implementing them, while 4 have been partially implemented.** One of these four recommendations concerning law enforcement agencies consisted of six sub-recommendations. Only one of the sub-recommendations has been fully implemented, two have been partially implemented, one has not been implemented at all, while two are formulated so broadly that it is impossible to assess their implementation.⁹

⁸ Data taken from the publication Numbers of Equality 2. Research on the Problems and Needs of LGBTI Persons in Bosnia and Herzegovina in 2017 – Analysis of Findings, available at: http://soc.ba/site/wp-content/uploads/2017/10/ENG-Brojevi-ravnopravnost_04.10.2017.-WEB-II.pdf Accessed on 13 April 2018.

⁹ A detailed overview of the recommendations and their implementation can be found in the Appendix to this report.

The Institution of the Ombudsperson does not have the mechanisms to ensure the implementation of its recommendations, nor can it impose sanctions, which means that implementation is left to the discretion of the institutions. The Special Report was presented only in the state level parliament, during a thematic session of the Joint Committee on Human Rights of the Parliamentary Assembly of Bosnia and Herzegovina in December 2016. It has never been presented in entity-level or cantonal parliaments even though these governments have more responsibilities when it comes to implementing the recommendations.

The Institution of the Ombudsperson has a worrying practice of not issuing recommendations for individual complaints regarding the rights of LGBTI persons, choosing instead to refer the parties to the Special Report, even for issues that the Report does not cover. This decreases the likelihood of the institutions effectively implementing recommendations addressed directly to them, at least when it comes to the rights of LGBTI persons.

Public Policies for Combating Discrimination of LGBTI Persons

Gender institutional mechanisms did not do as much work in 2017 as they did in 2016 in terms of supporting the equality of LGBTI persons through **annual operational plans developed under the Gender Action Plan**. However, at the start of 2017, the Agency **formed a working group tasked with producing an Action Plan to Enhance the Equality of LGBTI Persons**, as foreseen in the Action Plan for Implementing the Proposed Anti-Discrimination Measures in Bosnia and Herzegovina produced by the Ministry of Human Rights and Refugees of BiH. In 2017 the working group produced a Draft of the Action Plan for Equality of LGBTI Persons in Bosnia and Herzegovina for the 2018-2020 period, which is pending adoption by the Council of Ministers.

The other five measures from the **one-year Anti-Discrimination Action Plan** adopted in 2016 that were supposed to enhance the human rights of LGBTI persons were still not implemented in 2017, nor were there any signs that they might be implemented in the near future.

The Ministry of Human Rights and Refugees of BiH initially took up the responsibility of **developing a human rights strategy and an anti-discrimination strategy** that were also going to include the rights of LGBTI persons. Representatives of civil society organisations were supposed to participate in the process, but in 2017 the Ministry gave up on developing these strategic public documents, opting instead to work on the Anti-Discrimination Programme.

The Programme suffers from a series of shortcomings, the main ones being of a methodological nature: instead of setting strategic anti-discrimination objectives in all areas and/or for the various affected social groups/grounds of discrimination, the Programme simply incorporates all existing or planned activities of the institutions and bodies in Bosnia and Herzegovina that are in any way connected to minorities, rights violations, etc. and not necessarily anti-discrimination. This does not help establish a targeted, purposeful approach to anti-discrimination, especially in BiH institutions that have a limited grasp of the non-discrimination principle, nor does it solve the problems that are already known to affect discriminated groups on an everyday basis.

Documented Cases

Every third LGBTI person in Bosnia and Herzegovina has experienced discrimination. However, it is worth remembering that only a small number of LGBTI persons out themselves to a wider circle of people. The percentage of 38% of LGBTI people who have experienced some form of discrimination could therefore be attributed to the fact that LGBTI persons generally conceal their identity. The high percentage of transgender persons who have experienced discrimination is particularly alarming: about 2/3 of transgender respondents claim they have experienced some form of discrimination, which only confirms the particularly vulnerable status of this group and the high level of transphobia in the society. The fact that transgender persons have a harder time concealing their identities, because gender expression is usual visible, could explain the high numbers.

Sarajevo Open Centre recorded **seven cases of discrimination in 2017**, almost double than the previous year (four cases). Five out of seven recorded cases were cases of discrimination on the grounds of gender identity (i.e. against transgender persons). Two cases involved discrimination in the area of education, two were about discrimination in health care, and one discrimination case was recorded in each of these areas: employment, the media and public administration.

In January 2016, the company that Sarajevo Open Centre worked with refused to put up posters announcing the Merlinka Festival. Sarajevo Open Centre instituted a court case for discrimination on grounds of sexual orientation in the provision of services. A number of court hearings took place during 2017. In February 2018 the Municipal Court in Sarajevo passed a first-instance ruling to deny the complaint of Sarajevo Open Centre, determining that no discrimination had taken place. Sarajevo Open Centre appealed this ruling before the Cantonal Court in Sarajevo at the end of February. The appeal case is still on-going.

Guidelines for Further Action

- Implement the Anti-Discrimination Law of BiH by drafting and adopting a multi-annual public policy for equality of LGBTI persons which would be applied in the entire state and which would define specific and realistic measures at state, entity, cantonal and local level, especially having the vulnerability of transgender persons in mind;
- Based on recommendations of the Special Report of the Ombudsperson Institution, improve laws and regulations, and include the rights and needs of LGBTI persons into all public policies at all levels, ending thus the institutional neglect of this minority and de-privileged group.
- Continue to issue recommendations by the Institution of the Ombudsperson for Human Rights on the grounds of individual complaints regarding SOGISC discrimination cases, invoking the Special report.
- Introduce LGBTI-specific modules in education of future teachers, police officers, judges and prosecutors.
- In addition to legal and policy solutions, it is necessary to pass internal documents and develop internal mechanisms for all legal entities for solving discrimination cases, including the ones on grounds of SOGISC.

HATE CRIME AND INCITEMENT TO HATRED

Legal Framework

In July 2017, the National Assembly of Republika Srpska adopted the Criminal Code of Republika Srpska. “Public Instigation and Incitement to Violence and Hatred” is one of the criminal offences regulated by the Code, which makes Republika Srpska the first administrative unit in BiH to penalise incitement to hatred, hate speech and violence against LGBTI persons, as well as other marginalised groups in BiH. The law prohibits public instigation and incitement to violence and hatred on the grounds of **“nationality, race, religion or ethnicity, skin colour, sex, sexual orientation, disability, gender identity, origin or other characteristics.”**

Provisions which sanction incitement to hatred, hate speech and violence are also included in the criminal codes of the Federation BiH and Brčko District, but they are unfortunately limited exclusively to prohibition of incitement to hatred and violence on national, ethnic and religious grounds. With this legal framework, it is impossible to sanction incitement to hatred and violence against LGBTI persons, which proliferate on internet portals and social networks and frequently grow into discrimination and hate crime. Criminal codes of the Federation BiH and Brčko District should therefore be amended in the way it was done in Republika Srpska.

All three criminal codes recognise **hate crimes** (in Brčko District, hate counts as an aggravating factor) and provide protection to LGBTI persons and other marginalised social groups. Expanding the provisions on criminal offences related to hate, hate speech and violence, would therefore reflect the lawmakers’ desire to penalise and prevent similar socially damaging behaviour.

Institutional Action

The police and the justice sector are still not systematically collecting information on hate crimes committed on the grounds of gender, sexual orientation, gender identity and sex characteristics. In 2017 and 2018, Sarajevo Open Centre sent inquiries to all municipal, basic, cantonal and district courts in BiH to provide information on the number of hate crime cases on the grounds of sexual orientation and gender identity processed at said courts. From the information received, most courts have not dealt with such cases yet.¹⁰

¹⁰ Inquiries were sent to 48 courts in BiH, and 35 courts have replied.

In 2017, Sarajevo Open Centre held **two** two-day **trainings on discrimination and hate crime against LGBTI persons for judges and prosecutors**. The trainings included **43 representatives of the judiciary**. One **two-day training was held for 20 police officers**.

Documented Cases

In 2017, Sarajevo Open Centre documented **83 cases of hate speech and incitement to hatred and violence, and 31 cases of criminal offences and incidents** motivated by prejudice on the ground of sexual orientation and/or gender identity.

From the very start of 2017, we have seen some tendencies of special concern – **growing domestic violence, homophobia and transphobia and peer violence** in educational institutions. These trends, in addition to an inadequate response by competent institutions have unfortunately continued over the last two years.

Of the 31 cases documented from January to December 2017, **11 have been cases of domestic violence**, ranging from threats to blackmailing, unlawful deprivation of liberty and prohibition of movement, violence and bodily injury, forced medical treatment. The perpetrators in all cases have been parents or siblings with the support of extended family. The most extreme case involved violence over a prolonged period committed daily by the mother and father, who took advantage of the fact that the person was economically dependent and could not easily leave the family home. The violence started at an early age, after the person's coming out, and became entrenched as permanent family dynamics.

Homophobic and transphobic peer violence is a continuous problem also in **8 cases from 2017**. Although some cases have been reported to the competent ministries of interior and social welfare centres and, there is still an evident lack of a concrete institutional plan to combat peer violence and develop an inclusive and tolerant educational environment which would include the LGBTI perspective as well.

Eight cases of violence against LGBTI activists were recorded. Police violence against LGBTI persons emerged in 2017 as a special category encountered in **two cases**.

The research on the problems and needs of the community conducted by Sarajevo Open Centre has shown that 60.9% of LGBTI persons fear for their safety on account of being LGBTI, do not feel adequately protected and do

not feel they enjoy minimum safety. 25.4% (one in four) respondents have experienced violence due to their sexual orientation/gender identity/sex characteristics. Of this number, 32.5% homosexual (gay) men and 28% bisexual men have experienced violence due to their LGBTI identity, compared to 17% of homosexual women (lesbians) and 18.3% of bisexual women.

Two-thirds of transgender respondents have experienced violence. Of this number, 66.7% of transgender respondents have been on the receiving end of transphobic comments, while 55.6% of respondents suffered verbal transphobic abuse. The fact that 5 out of 18 transgender respondents experienced sexual abuse is particularly alarming.

LGBTI persons use different strategies in order to avoid potentially dangerous situations for fear of violence: as many as 69.4% conceal their LGBTI identity, about 55% avoid going to some places perceived as unsafe for LGBTI persons, while 19.4% avoid mass gatherings. 12.5% avoid walking alone, 7.4% do not use public transportation, and almost 7% of respondents avoid leaving the house because they fear for their safety, which could be qualified as an extreme case of self-isolation brought on by fear.

Guidelines for Further Action

- Amend the criminal codes in the Federation of BiH and Brčko District, and expand the provisions on incitement to hatred and violence so that they include sexual orientation and gender identity as protected grounds.
- With the aim of fighting homophobia and prejudice within the institutions, keep training and informing the judges, prosecutors, police officers and civil servants on hate crime and incitement to hatred and violence against LGBTI persons.
- Improve the cooperation between the police and the judiciary in prosecuting hate crime against LGBTI people; systematic collection of data on hate crime on the grounds of gender, sexual orientation, gender identity or sex characteristics.
- Introduce LGBTI inclusive modules in curricula and programmes in law schools and police academies, in the permanent and specialist programmes of police officers training, and civil service exams.

- Develop a programme to combat peer violence in primary and secondary schools which will encompass homophobic and transphobic violence, as well as programmes to promote tolerance and create an inclusive educational system.
- Training of university teachers and the academia to make them more sensitive in working with LGBTI persons – to be able to recognise, denounce and avoid the use of hate speech against LGBTI persons.



III FREEDOM OF ASSEMBLY

Legal Framework

The right to freedom of assembly is regulated by the Constitution of BiH, entity and cantonal constitutions, Statute of Brčko District, and entity and cantonal laws. This right is also additionally safeguarded by international documents which BiH ratified or adopted in its legal system, such as the European Convention on the Protection of Human Rights and Fundamental Freedoms. All these documents guarantee that all citizens in BiH have the right to freedom of assembly which may be restricted only with the aim of protecting the security of people or property.

Four years after the attack on Merlinka Festival no charges have yet been brought against the perpetrators. One of the attackers appeared before the Municipal Court in Sarajevo, at the first hearing in March 2018. Sarajevo Open Centre will continue to monitor the case. It should be kept in mind that the delayed response of the judiciary prompted Sarajevo Open Centre to lodge an appeal before the Constitutional Court of BiH in November 2016 concerning the violation of the freedom of assembly of LGBTI citizens.

Documented Cases

In 2017 and the first half of 2018, there were several violations of freedom of assembly of LGBTI persons in Sarajevo Canton. These violations point to larger systematic and legislative shortcomings that need to be addressed.

Namely, a case stands out which happened in April/May 2017. On 30 March 2017, Sarajevo Open Centre contacted the Ministry of Interior of Sarajevo Canton to announce a **protest march scheduled for 13 May to mark the International Day against Homophobia and Transphobia**. Since the planned march route stretched down the traffic road from Eternal Fire to the Parliamentary Assembly of BiH, on 11 April 2017 a permit was also requested from the Ministry of Traffic of Canton Sarajevo. According to the Law on Fundamentals of Traffic Safety of BiH, this permit should be sought no later than 15 days prior to the event. After filing an official request for permission, members of Sarajevo Open Centre communicated with a representative of the Ministry of Transport via telephone and received contradictory information. There was no official response from the Ministry. Sarajevo Open Centre cancelled the march 48 hours before it was supposed to take place and announced instead a protest gathering in front of the

building of the Government of Sarajevo Canton. The decision of the Ministry of Transport arrived five hours after the press conference during which members of Sarajevo Open Centre informed the public that the march had been cancelled due to administrative silence of the Ministry of Transport. Since the decision arrived on 11/5/2017 at 16:08h, it was too late to organise and hold the march and too late for Sarajevo Open Centre as organiser to fulfil its legal duty prescribed by the BiH Law on Fundamentals of Traffic Safety and inform the public of any street closures 48 hours in advance. Failing to meet this requirement would have rendered the decision void, which means that the march would have been cancelled anyhow. **Through its administrative silence and clear reluctance to issue the permit in due time, the Ministry of Transport of Sarajevo Canton violated the right to freedom of assembly of LGBTI persons in Sarajevo Canton.** Sarajevo Open Centre and the activists who participated in the march filed an application before the Cantonal Court in Sarajevo, asking the Court to protect the rights guaranteed by the Constitution. The proceedings have yet to start.

The **Institution of the Ombudsperson** confirmed that the Ministry of Transport violated freedom of assembly. Following a complaint from Sarajevo Open Centre, the Institution issued a recommendation describing concrete steps to be undertaken by the FBiH Parliament, the Ministry of Transport and the Ministry of Interior of Sarajevo Canton:

1. The Institution urged the FBiH Parliament to amend the FBiH Law on Roads and set a special deadline for the Ministry of Transport to issue permits/approvals for “sports events and other events taking place on public roads”.
2. The Institution urged the Ministry of Transport of Sarajevo Canton to act with due diligence whenever it receives a request to issue a permit/approval for events of this kind, especially when the request is filed by members of the LGBTI population and their associations. The recommendation advises the Ministry to act immediately upon receiving the request, instead of preventing the applicants from exercising their freedom of assembly by failing to respond.
3. The Institution urged the Ministry of Transport and the Ministry of Interior of Sarajevo Canton to be proactive in protecting the rights of the LGBTI population; duly react to violations of the rights of LGBTI persons protected by the law; continue raising awareness on how to work with the LGBTI population; do everything in their power in order to ensure personal safety of any individual seeking to exercise their freedom of assembly guaranteed by the constitution.

In mid-March 2018, Sarajevo Open Centre filed a request with the Centar Municipality, seeking permission to hold a public event on the square in front of BBI Centre. The purpose of the event was to **commemorate International Transgender Day of Visibility. Transgender persons are among the most marginalised groups in BiH and our goal was to raise awareness on the problems they face.** Since the square belongs in part to the municipality and in part to BBI Centre, the Municipality requires the applicants to obtain permission from BBI Centre as well. Representatives of BBI Centre responded in an email, **saying they could not grant permission for the activity** because of a larger event already booked for that day, and because **they could not “grant permission for so-called high risk activities that require additional security for both the building and third parties.”** We asked BBI Centre to explain how it conducted the risk assessment, since the Law on Public Assembly of Sarajevo Canton stipulates that the risk assessment should be carried out by the Ministry of Interior of Sarajevo Canton. The Law also stipulates that the organisers are responsible for hiring private security. Representatives of BBI Centre responded that they were **“trying to make the best decision regarding the capacity of the square, demand, content and other factors”**, and failed to give any specific information on how the risk assessment was conducted.

It should be noted that Sarajevo Open Centre had already organised an event in front of BBI Centre, with the support of the Ministry of Interior of Sarajevo Canton, without any security concerns or any other problems whatsoever.

After receiving a rejection from BBI Centre, Sarajevo Open Centre filed the same request to hold the event on the Susan Sontag Square in front of the National Theatre. We followed the same procedure, first contacting the Centar Municipality and then the National Theatre. In its response the National Theatre said it gave “permission only for cultural and artistic events” and that “the historic building of the National Theatre is a national monument”, adding that it could not “give permission for events that require special security measures”. The square in front of the National Theatre is public property and is not owned by the National Theatre – itself a public institution. In a phone conversation with Marijela Hašimbegović, the director of the National Theatre, a member of Sarajevo Open Centre emphasised the artistic nature of the performance, the long tradition of using art as a way of fighting for the rights of LGBTI persons, and made it clear that the organisers, together with the Ministry of Interior of Sarajevo Canton, would take care of all security issues by hiring a private security agency. The director of the National Theatre responded by saying: “It is inappropriate to carry out this performance in front of the National Theatre because the banners you will be holding carry negative connotations!”

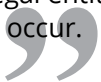
Transferring the responsibility to ensure and protect freedom of assembly of citizens of Sarajevo Canton onto institutions and legal entities not in charge of such matters has created a situation in which **legal entities take it upon themselves to conduct risk assessments, despite this being exclusively under the authority of the Ministry of Interior of Sarajevo Canton, as per the Law on Freedom of Assembly of Sarajevo Canton.** The procedures of Centar Municipality are grounded in the Law on Temporary Use of Public Surfaces in Sarajevo Canton, but this Law does not deal with public assemblies or the citizens' unobstructed access to public surfaces, which means it is not applicable to assemblies and events of this kind. By insisting on this kind of practice the Centar Municipality allows individual institutions and legal entities to interpret the Law on Public Assembly of Sarajevo Canton in a way that violates the provisions of that very same Law, and use discriminatory criteria to determine which group of citizens gets access to public space that by definition belongs to all citizens. This once again sends a message to LGBTI persons that they should continue hiding and that they are not equal to other citizens in the society.

Wishing to find out the reasons behind the negative responses as well as see discrimination on the grounds of sexual orientation and gender identity penalised, Sarajevo Open Centre lodged a complaint with the Institution of the Ombudsperson concerning the decisions of the National Theatre and BBI Centre. We expect the Institution to issue recommendations, clearly indicating the harmful and unlawful nature of the decisions.

Guidelines for Further Action

- Adopt a law on the level of the Federation of BiH uniformly regulating public assembly for all cantons, as there are no constitutional impediments for doing so, and harmonise legislation on all government levels in order to ensure equal enjoyment of rights enshrined in the constitution on the entire territory of BiH. The uniform law on the level of the Federation of BiH should contain the following provisions, i.e. rest upon the following principles:
 1. The law should clearly state that the authorities have an obligation to protect all types of assemblies, as long as they are peaceful. It should also define the principle of proportionality, meaning that banning or restricting an assembly must be proportional to the cause and based on valid, justifiable grounds - i.e. allow for the possibility of banning/restricting assemblies on locations where they pose a real and immediate threat to the well-being and safety of a large number of people or property, all the while respecting the principle of proportionality;

2. Banning an assembly should be possible only in a limited number of cases, i.e. when there is real danger. The law should not list individual places that are particularly likely to result in a ban (consistent implementation of the proportionality principle);
 3. The law should define efficient and effective legal protection procedures to contest the ban, particularly through emergency court procedures (more information available in the section on legal protection);
 4. The law should clearly stipulate that only bodies in charge of interior affairs need to be notified when planning a public assembly. This would simplify the notification procedure and free organisers from the obligation of seeking permission from other relevant authorities in cases when the assembly takes up roads or public spaces in front of institutions/other legal entities.
- Do away with provisions in all laws (including corresponding provisions in the BiH Law on Fundamentals of Traffic Safety and the FBiH Law on Roads) that require organisers to seek special permission/approval from relevant transport authorities if the assembly takes up road surface, because this creates unnecessary, disproportionately difficult problems for the organisers. The laws should state that **only one competent authority** (the body in charge of interior affairs) can make decisions about public assemblies, i.e. prescribe that the notification form submitted to the police should simply state whether or not the assembly will require street closures, so it could be taken into account.
 - These laws should also clarify that **laws/provisions on temporary use of public surfaces (i.e. The Law on Temporary Use of Public Surfaces in Sarajevo Canton) cannot apply to peaceful assemblies of citizens and associations of BiH**, nor can such public assemblies depend upon the approval of institutions/other legal entities that use the public space where the assembly is supposed to occur.



IV FAMILY LIFE AND SAME-SEX PARTNERSHIPS

Legal Framework

Regarding the legal regulation of same-sex partnerships in Bosnia and Herzegovina, the situation remains unchanged since last year. **Not a single administrative unit in BiH (family laws of RS, FBiH and BD) engages in regulating the relationships of same-sex couples.** In this way, LGBTI persons are unable to claim their constitutionally guaranteed rights to freedom and security, private and family life and home, to starting a family, protection of property, or freedom of movement and residence, which are necessary to ensure the respect and protection for same-sex unions.

The obligation of BiH to regulate same-sex partnerships arises from BiH membership in the Council of Europe and from the decisions of the European Court for Human Rights. Several recommendations by the Council of Europe bind the member states to respect private and family life of each and every individual and to enable **the right to same- sex partnerships that would be legally equal to heterosexual civil partnerships at least.**

In addition, the practice of the European Court for Human Rights clearly points at the obligation of member states to pass legislation which will ensure 1) legal recognition of stabile emotional same-sex partnerships and 2) an adequate level of law necessary for the efficient respect of the right to family life of such partnerships and that states which do not pass such laws offend the dignity of such partnerships and violate the European Convention.¹¹ Having in mind that the Constitution of BiH stipulates direct application of the European Convention on Human Rights and Fundamental Freedoms and that it shall prevail over any other law – this obligation refers also to its entities.

This issue will inevitably have to be dealt with in public and legislative bodies regarding the commitment of BiH to accede the European Union. The European Commission is currently drafting an opinion on the potential candidate status of BiH, which is why it asked data on this issue as well in the Questionnaire.¹²

¹¹ Cases Oliari vs. Italy and Valiantos vs. Greece at the European Human Rights Court.

¹² The European Commission Questionnaire for BiH – Political criteria – E. The right to marriage and family

When discussing the legal framework of the EU, in addition to the fact that the citizen status issue like family organization is exclusively under the jurisdiction of member states, the opinion of the EU Court is that the jurisdiction cannot be used to discriminate against EU citizens regarding their access to the rights the organization of which is part of EU jurisdiction.^{13 14}

The fact that regulation of same-sex partnerships is one of the most problematic aspects and a question which is equally important for LGBTI persons and all other citizens was evident in SOC's research from 2017 on this topic where **2/3 of respondents stated the impossibility of same-sex partnerships as a very important issue**. Further on, the fact that **over 2/3 of respondents are living or planning to live with a partner and that more than half of them would be part of a same-sex partnership if it were possible**, gives a clear enough image of the discrepancy between the needs of LGBTI persons on the one and ignoring the issue by the state on the other side.

Documented Cases

In 2013, 3 couples contacted Sarajevo Open Centre looking for information on registering their partnerships in the countries of the region and in the European Union.

In 2018, the Municipal Court in one of the Cantons in FBiH while passing the verdict in a proceeding regarding property claims, characterised a same-sex relationship as a partnership of life between two people whose purpose is mutual life. This is, as far as Sarajevo Open Centre is informed, the first time that a court in BiH has thus classified a same-sex relationship as a partnership of life between two people which is the legal definition for describing marriage and civil partnership.

Guidelines for Further Action

- Pass and implement laws in all three administrative units (Republika Srpska, the Federation of BiH and Brčko District) that would legally recognize same-sex partnerships and define the rights and obligations of cohabitating couples in same-sex unions (with particular focus on social and economic rights).

¹³ Hay Verdict by the Court of Justice of the European Union

¹⁴ Outside the Law: Legal Regulation of Same-sex Partnership in Bosnia and Herzegovina, Sarajevo Open Centre 2016, Petrić, Krešić, Bosanac, Selanec, Idžaković

V RIGHTS OF TRANSGENDER PEOPLE

Legal Framework

Transgender people in BiH can only change the sex marker in their official documents and the Unique Master Citizen Number after a “complete” medical transition. According to the laws on Registry Books at entity level and in Brčko District and through the internal rules of the ministries of health and ministries of interior of the entities and Brčko District, following the check of the documentation brought from abroad, the ministries of interior retract the old Unique Master Citizen Number, issue a new one and issue a decision on the basis of which the person can proceed to change the rest of their documents. The fact that **both the endocrine therapy and the surgical procedures have to be undergone abroad**, since they cannot be performed in BiH, and that the cost is covered by transgender persons, not the state-funded health insurance, additionally prolongs the transition process and increases financial costs.

Since the sex reassignment surgery itself is a lengthy procedure, and the body of the transgender person changes, there is a discrepancy between how the person looks and the information about their sex in their official documents. This practice leads to discrimination and inequality of trans* individuals and it forces them to have to constantly explain their gender identity, reveal personal information and have their medical documentation with them all the time during the most mundane moments of their life like taking classes and sitting for exams, paying by card in supermarkets, visiting a medical institution, crossing the border, identifying themselves to a person at a state institution and during job search, which leaves them highly exposed to discrimination and violence in the transphobic BiH society.

It is imperative that BiH, its entities and Brčko District regulate the legal aspects of sex change so that laws are passed which will systematically and comprehensively regulate the procedures of changing one's name, sex markers in the birth certificate, Unique Master Citizen Number and other personal documents, and they need to enable trans* persons to change their sex markers while still undergoing transition, without waiting to complete all the medical aspects of transition, in order to prevent their additional discrimination and marginalisation.

In November 2017, the **Institution of the Human Rights Ombudsperson in BiH issued a recommendation emphasising that according to the Laws on Personal Names in the entities, all individuals can change their names**

to other names, regardless of the fact that the socially determined sex of the name and the sex marker in the documents of the person are not harmonised. The recommendation was issued following the complaint filed by Sarajevo Open Centre and Tuzla Open Centre to the Institution of the Ombudsperson regarding discrimination of a transgender person who was denied the change of name by the Ministry of Interior of the Tuzla Canton. After the accepted recommendation, the Ministry changed the name in accordance with the Law on Personal Names of FBiH. The Institution of the Ombudsperson directed the recommendation to all the Ministries of Interior in BiH.

A research into the needs of the LGBTI community by Sarajevo Open Centre from 2017 showed that around 61% of transgender individuals, who participated in the research, plan to change their sex partially or completely, while 22.2% of them have not made that decision yet. Out of that number, 4 individuals (22.2%) are already transitioning, while 7 of them (38.9%), out of those who are not, would like to begin the transition. Although the decision on sex reassignment means that the respondents have to completely bear the cost of the treatment, most of them are planning to do that since they consider it to be an extremely important step in creating their own identity.

Six transgender respondents had problems due to their gender expression and discrepancy between the way they look and the sex markers in their documents. The problems occurred during interaction with official entities (police, border police). Almost 2/3 of the respondents stated that they would change their sex markers in the documents even before the completion of transition if such an opportunity formally existed. Such a change would prevent transgender individuals from being constantly exposed to potentially discriminatory and/or violent behaviour and lower the need for permanent proving and explaining of gender identity in their public and private life.

2/3 of respondents in this research also think that there should be a legal third category of sex, in addition to the binary male and female, since it would ensure a sex marker for gender fluid individuals, for individuals who do not see their gender in binary gender categories or the individuals who locate their gender identity somewhere between these two genders.

Documented Cases

In 2017, Sarajevo Open Centre was contacted by seven transgender persons who inquired about the possibility of changing the sex marker in their personal documents. Unfortunately, none of them could change it, because they had not undergone complete medical sex reassignment.

Guidelines for Further Action

- Pass and implement a framework law at the state level which would clearly define the term *sex change* and would simplify and make more accessible the procedure of legal sex change based on the life with a different gender identity without setting the condition of having completed the full medical transition.
- Pass and implement laws in all three administrative units (Republika Srpska, the Federation of BiH and Brčko District) that would simplify and make more accessible the procedure of legal sex change and which would enable the legal change based on life with a different gender identity without setting the condition of having completed the full medical transition.
- Pass and implement laws in all three administrative units (Republika Srpska, the Federation of BiH and Brčko District) which would define the duties of medical institutions to form teams and train professionals who could follow the process and perform medical procedures for sex reassignment in Bosnia and Herzegovina, and which would establish the obligation of health insurance institutes to cover the costs of these procedures out of the health insurance budget.

VI HUMAN RIGHTS OF INTERSEX PEOPLE

Legal Framework

Bosnia and Herzegovina still belongs to a small number of countries in Europe which explicitly protected intersex persons in their anti-discrimination legislation, **by prohibiting discrimination on the ground of sexual characteristics** – a very positive step in the fight for protection of intersex persons. However, intersex people are an extremely invisible and vulnerable group in BiH society, due to the lack of information about intersexuality and the problems intersex people face in public, reference literature, school and university textbooks, but also among medical workers. The terms *hermaphroditism* and *pseudohermaphroditism* are still used to denote intersex persons despite the fact that these terms are inaccurate, scientifically unfounded, and stigmatizing for intersex persons.

Clear medical guidelines and procedures for the treatment of various intersexuality cases which would be valid for all medical institutions in BiH have still not been defined. Sarajevo Open Centre research from 2016 clearly states that the so-called sex normalisation surgeries are performed in some public health institutions – the medical and surgical treatment of newborns governed by the need to aesthetically adjust the appearance of the baby and its sex characteristics to male or female sex regardless of the fact that the baby's health is not jeopardised. A great number of intersex people, but also medical professionals are advocating that any aesthetic medical procedure should be postponed until the moment when children can provide their informed consent.

Social Reality

The data of Sarajevo Open Centre research from 2016 is still the most relevant for presenting at least a partial image of the state in medical institutions.

In 2016 SOC contacted **27 health institutions in the Federation of BiH, Republika Srpska and Brčko District (7 of which responded)** asking them about the number of newborns that could have been classified as intersex; the procedure in such cases. Four out of seven institutions confirmed that they had had cases of intersexual newborns in their work. According to some medical estimates, but also activist data, **1 intersex person is born in 2000 births of the typical male or female sex.** In BiH, (if it is estimated that there are 30,000

newborns annually) around 15 babies are born annually with variations in sex characteristic – i.e. 15 intersex persons.

Intersex newborns are referred to larger clinical centres in Sarajevo, Tuzla, Banja Luka, and also abroad. One of the medical institutions stated that it is a common practice for parents and the child to be sent to Belgrade to University Children's Clinic Tiršova and the Mother and Child Institute.

It is certain that there is no clear and regulated procedure envisaged for these cases which leaves space for doctors to easily make decisions on surgical interventions or other medical treatments which are not necessary for the health of the child. It is unknown whether parents are provided adequate support of psychological and medical counselling which is necessary for them to make a decision which will be in the best interest of the child. Therefore, this is one of the issues that will require a lot of work. Primarily, with regard to stronger contacts and cooperation with clinical centres, sensitization of medical staff, but also the involvement of relevant institutions such as ministries of health and the Institution of Human Rights Ombudsperson.

Regarding the issue of cooperation with state institutions, there have been slight improvements. In 2017, Sarajevo Open Centre organised training for the representatives of gender institutional mechanisms on intersexuality and human rights of intersex people. In the previous year, there was a series of organized info sessions for the representatives of institutions in Sarajevo Canton with a special segment encompassing also the issue of intersex people. This is very important since it was the first time that representatives of institutions were trained who could directly influence the improvement of the position of intersex individuals. Those are the representatives of the following institutions: Prosecutor's Office of Sarajevo Canton, Ministry of Labour, Social Policy, Displaced People and Refugees and departmental institutions of the Ministry: Gerontology Centre, Social welfare centre, Psychiatric Hospital Jagomir, Disciplinary Centre for Juveniles, Therapeutic Community Kampus and Family Counselling Centre.

Sarajevo Open Centre research from 2017 about the problems and needs of LGBTI persons showed several things relevant for intersex people. First of all, **intersex people are still invisible** and it is difficult to find a person ready to talk about their problems. Secondly, it has been shown that, within the LGBTI community, the problem of forced surgery of intersex people, specific only to this group, is perceived very seriously although most respondents themselves do not face this (e.g. it has been identified as a greater priority than the inability to form life partnerships, harder access to services etc.)¹⁵

¹⁵ Numbers of equality 2. Research on Problems and Needs of LGBTI Persons in Bosnia and Herzegovina in 2017, Amar Numanović, Sarajevo Open Centre 2017.

Guidelines for Further Action

- Further cooperation with medical institutions and experts, sharing information and raising sensitivity regarding the problems of intersex persons and revising medical classifications to remove outdated terms such as *hermaphrodite* and *pseudohermaphrodite*.
- Transparent and accessible information about the procedures and medical treatments in case of birth of an intersex baby and prohibition of medically unnecessary surgical procedures and medical sex normalisation treatments in health institutions performed on intersex persons without the full and informed consent of the intersex person.
- Continuous involvement of public authorities (ministries of health) and public bodies competent for the protection of human rights (ombudsperson) in the protection of human rights, self-definition and bodily integrity of intersex persons.

Legal Framework

The legal framework in this area is regulated by the **Law on Aliens** and **Law on Asylum**. These two laws were adopted at the end of 2015, and the beginning of 2016 due to harmonisation needs with the *acquis communautaire* regarding the issue of immigrants, asylum seekers and alien residence. Although the provisions of EU Directives¹⁶ have been completely transposed, the provision stating sexual orientation and gender identity as particularities of a certain social group, thus the reason for exile and asylum seeking has been left out. Same-sex partnerships have also not been recognised as grounds for temporary residence in BiH nor are they recognised by law in the provisions regarding family reunification.

The Institution of the Human Rights Ombudsperson **issued recommendations to competent authorities relative to treatment of asylum seekers and aliens** in their Special Report on the Rights of LGBTI People in BiH in 2016. It was recommended, among other things, that officers working on asylum and other related professions should be provided trainings and that LGBTI asylum seekers should be treated with respect and sensitivity and provided information in the course of the asylum procedure. Until April 2018, there were still no measures undertaken to set in place procedures which shall make possible for LGBTI asylum seekers to feel safe to speak about their sexual orientation or gender identity, nor to address social isolation and discrimination that LGBTI asylum seekers experience in asylum centres. **In January 2018, a gay man, an asylum seeker from Syria, had to be relocated from the asylum centre due to the violence he suffered and the way he was treated by other asylum seekers in the centre.**

The number of LGBTI persons from BiH contacting Sarajevo open Centre and asking for information on moving or seeking asylum in the European Union or the United States of America on the ground of their sexual orientation or gender identity is constantly growing. LGBTI persons from BiH decide to seek asylum due to psychological problems, psychological and physical violence, employment discrimination and rejection by the society, all of which they suffer due to sexual orientation and/or gender identity.

¹⁶ The 2011/95/EU Directive states that "Characteristics related to sex, including gender identity, have to be taken in consideration for the purpose of determining the affiliation of a particular social group or determining the characteristics of such a group."

Documented Cases

In 2017, Sarajevo Open Centre received nine inquiries regarding either information or assistance, and as of 2018, 4 inquiries have already been received for assistance and provision of information to LGBTI persons in BiH about the process of claiming asylum in the EU and the United States of America.

In 2017, the Service for Foreigners' Affairs of Bosnia and Herzegovina registered **2 people, and since the beginning of 2018, 1 person** seeking asylum on the grounds of sexual orientation or gender identity.

Guidelines for Further Action

- Amend the Asylum Law of BiH so as to explicitly include sex, sexual orientation, gender identity and sexual characteristics as grounds for asylum seeking and possible persecution reasons.
- Recognise in the Law on Aliens same-sex partnerships i.e. family reunification as a ground for granting temporary residence to partners of BiH citizens.
- Provide training to officers handling asylum so that LGBTI asylum seekers are treated with respect, in an adequate, professional and sensitive manner during the asylum seeking procedure.

Legal Framework

The codes of professional journalist ethics in BiH exist at the level of Communications Regulatory Agency BiH, the Press Council BiH and at the level of certain journalist associations. **At the level of the Communications Regulatory Agency BiH there is a Code on RTV Standards and at the Press Council level there is a Code for Print Media.** The biggest difference between these two codes lies in the fact that the Communications Regulatory Agency BiH is authorised to impose certain sanctions (written or oral warnings, fines, revocation of licence) in case of violation of the Code on RTV Standards, while the violation of the Code for Print Media does not entail any legally prescribed sanction. The content of print media is subject to self-regulation after the action of the Press Council – the Press Council assesses the media content it received a complaint about and, if it establishes a breach, informs the media outlet that the complaint refers to that it is obliged to publish a correction which they may but do not have to do.

The difference between these codes is also reflected in the way in which they regulate hate speech. The prohibition of hate speech is clearly stated in the Code on the RTV Standards which defines hate speech as: “language/speech which aims to humiliate, intimidate or incite violence or prejudice against persons, or a group, on the basis of their sex, race, age, nationality, sexual orientation, disability, moral or political convictions, socio-economic status or profession,” while the Code for the Print Media approaches the issue by prescribing that: “journalists will do their best to abstain from encouraging or inciting hate and/or inequality on the basis of ethnicity, nationality, race, religion, sex, sexual orientation, disability, or mental state”.

Analysis of media reporting¹⁷

In 2017, Sarajevo Open Centre monitored the reporting of 62 electronic, print and online media outlets. In total, 2073 texts/features (60% more than in the previous year) have been published about LGBTI topics in all the media: print – 639 texts, television – 96 features and online media – 1338. The printed media outlet which reported most on LGBTI topics was Oslobodjenje – 98, TV station Federalna televizija – 25 and online portal Avaz.ba – 176.

¹⁷ Sarajevo Open Centre has monitored and analyzed media reporting on LGBT persons, topics, rights and cultures for years. This data is part of the analysis for 2017.

The largest number of news was regarding LGBTI persons from the region and the world. There was sensationalist reporting on transgender persons with the focus on sex reassignment.

Of the topics from Bosnia and Herzegovina, the most reported news was the protest assembly held in May, the thematic session of the Parliamentary Assembly BiH, the activities of Sarajevo Open Centre and initiatives for legislative changes which happened during the year, pertaining to the rights of LGBTI persons. One part of media reports was directly concerned with the right of intersex people in BiH.

Online media still have the largest amount of agency news, copy-pasted, while it is evident for TV shows that public events similar to the Pride attract the most attention. This year saw an increase in the number of negative texts in online media, compared to the previous year.

Most texts fall into the category of neutral features, so it can be concluded that in 2017, journalists missed the opportunity to write engaging and researched pieces on interesting and definitely important topics.

Guidelines for Further Action

- The media in BiH need to refrain from inciting hatred and need to use gender- sensitive language and politically correct LGBTI terminology; they need to use their position to educate the public and, to fight against stereotypes and prejudice and to advocate tolerance.
- The media in BiH should not convey hate speech and need to treat LGBTI topics through the prism of affirmation of human rights, they need to choose the images that accompany the articles so that they are topic-appropriate instead of sensationalist, and they need to treat LGBTI persons equally as heterosexual and cisgender and not view them exclusively through the prism of their sexual orientation or gender identity; the need to report more on cultural, social, legal and political matters concerning LGBTI persons in BiH.
- The media in BiH need to report on legislation and the necessity to respect LGBTI human rights; they need to control the comments on their online portals and social networks with the aim of suppressing criminal offences of inciting to discrimination, hatred and violence.

GLOSSARY OF LGBTI TERMS¹⁸

BISEXUAL PERSON

A person who is sexually and/or emotionally attracted to people of both sexes.

COMING OUT

Concept derived from the phrase *coming out of the closet*, routinely used to describe public or open declarations and affirmation of one's sexual orientation (for lesbians, gay men and bisexuals), gender identity (for trans people) and sex characteristics (for intersex people). It is common on two levels: as a self-discovery, and as a (more or less) public notification. Coming out is a very important process for LGBTI persons as it represents public affirmation of their own identity which is highly significant for the psychological health and quality of life of this minority group.

DISCRIMINATION

Discrimination refers to every distinction, exclusion, limitation and form of putting a person or a group of people at disadvantage. There are various grounds and characteristics by which a person or group of people is led to a disadvantaged position. Lesbians, gay men, and bisexuals can be discriminated against on the grounds of *sexual orientation*, trans* individuals (including transgender and transsexual persons) on the grounds of *gender identity* and gender expression, and intersex persons on the grounds of *sex characteristics*. It is therefore essential that all three grounds (sexual orientation, gender identity and sex characteristics) be legally recognized as grounds on the basis of which discrimination is prohibited.

The principle of non-discrimination

Equal treatment of individuals or group regardless of their specific characteristic used to assess the apparently neutral criteria and practices which can cause effects which automatically put the people with these characteristics in an unfavourable position.

HOMOPHOBIA

Irrational fear, intolerance, prejudice against gay men and lesbians. It manifests as a conviction in heterosexual superiority. Such conviction incites violence against people who are not heterosexual, which is justified by a belief in one's own superiority (and the inferiority of others). Violence is reflected in verbal and physical attacks, and discrimination.

¹⁸ The Glossary of LGBTI terms was created through joint work of Sarajevo Open Centre team.

HOMOSEXUAL PERSON

A person who is attracted to persons of the same sex.

Lesbian

A woman who is sexually and/or emotionally attracted to other women.

Gay

A man who is sexually and/or emotionally attracted to other men. It is also used as an adjective (e.g. gay person), and as such can include both men and women of same-sex orientation.

Homosexual

Outdated clinical term for people whose sexual orientation is towards people of the same sex, i.e. person that is sexually and/or emotionally attracted to people of the same sex. This term is inappropriate and many gays and lesbians find it offensive. Better terms are gay (man) and lesbian.

HOMOSEXUALISM

An outdated clinical term that was used to medically mark the same-sex sexual orientation. It is considered offensive because it implies that homosexuality is a disease to be treated. Keeping in mind that the World Health Organization (WHO) confirmed in 1990 that homosexuality is like heterosexuality – a completely normal variation of human sexuality, this term is no longer in use.

INTERSEX PERSON

People born with *sex characteristics*, which include chromosomes, gonads or genitalia, that do not match the typical, binary categories of male and female bodies. There are different forms of intersexuality. Individuals can be male, female and intersex. *Intersex individuals*, like male and female individuals, have sexual orientation and gender identity. In the past, these persons were often called hermaphrodites, but this term is considered discriminatory and medically inaccurate.

INTERSECTIONALITY

An approach stemming from the sociological theory of intersectionality, which analyses discrimination as a complex system in which different forms of discrimination are based on different categories of identity (gender, sex, race, class, sexual orientation, gender identity). These identities are interconnected and influence each other and have to be considered together when reflecting on discrimination.

LGBTI

All-encompassing term used to denote lesbians, gay men, bisexual, trans*(gender) and intersex people. The term denotes a heterogenic group usually identified by the acronym LGBTI in social and political activism.

LGBTTIQ

Abbreviation for lesbians, gay men, bisexual, transgender, transsexual, intersexual and queer people.

QUEER

It was used earlier in the English language as a derogatory way to refer to non-heterosexual people. The term was later taken over by LGBTI people as a way to describe themselves. Some people particularly appreciate this term because it signifies defiance and includes diversity – not only gays and lesbians, but also bisexual, transgender, intersexual people, and even heterosexual people living outside the heteropatriarchal gender norms.

GENDER IDENTITY

Gender identity is associated with an individual's experience and comprehension of one's own sex, which may or may not correspond to the sex assigned at birth. Among other things, it refers to personal experience of one's own body, clothing and speech. People whose gender identity is in accordance with the sex they were assigned at birth are called *cisgender individuals*, and people whose gender identity is not in accordance to the sex they were assigned at birth are called *trans(gender) individuals*. Transsexual individuals as a sub-group of transgender individuals are persons whose gender identity is not in accordance with the sex they were assigned at birth and who intend to adjust their biological sex, or who are in the process of transition.

Gender expression

Visual and external presentation of every person that is reflected in clothing, hair, behavior, and body language.

SEXUAL ORIENTATION

Emotional and/or sexual attraction or affection towards people of the same and/or opposite sex/gender. Usually *heterosexual* (attracted to the persons of the opposite sex), *homosexual* (attracted to the persons of the same sex) and *bisexual* (attracted to the persons of both the same and the opposite sex) are used as categories. In legal texts in Bosnia and Herzegovina the terms sex orientation, sexual decision, sexual preference, sex preference, but the use of sexual orientation is recommended.

SEX CHARACTERISTICS

People's sex characteristics, like the chromosomes, gonads and genitals can be different than the typical, binary division on male and female bodies. People can therefore be male, female and intersex. Intersex people can be discriminated against, or be targets hate crimes and prejudice because of their sex characteristics.

TRANSGENDER PERSON

Term used for people whose gender identity is not in accordance with the sex they were assigned at birth. Transgender people feel, prefer, or choose to present themselves differently from traditionally prescribed gender roles assigned to them at birth. This can be expressed through clothing, mannerisms, makeup, or body modifications. Among other things, the term transgender refers to people who do not identify themselves as either male or female, transsexual, transvestites or cross dressers. A *transgender man* is a person who was assigned the female sex at birth, but his gender identity is masculine, or in the spectrum of masculine gender identities. A *transgender woman* is a person who was assigned the male sex at birth, but her gender identity is feminine, or in the spectrum of feminine gender identities.

Transsexual person

Person who has a clear desire and intent to modify their sex, or who has partially or completely modified their body (including physical and/or hormonal therapy and surgeries).

TRANSPHOBIA

Irrational fear, intolerance and prejudice against transsexual and transgender people.

HATE CRIME

Refers to criminal acts motivated by prejudices towards a person or group of people. Hate crimes include intimidation, threats, property damage, abuse, homicide or any other criminal act whose victim became a target of the assault because of their actual or assumed sexual orientation, gender identity, or seks characteristic, or because the victim is connected, supports, belongs to or is a member of an LGBTI group.

APPENDIX

The Political System of Bosnia and Herzegovina

The political system of BiH is highly complex and asymmetric. BiH consists of 13 federal units. BiH is administratively divided into two entities (the Federation of BiH and Republika Srpska) and Brčko District. Republika Srpska is unitary and made up of municipalities and towns, while the Federation of BiH comprises 10 cantons, each of which is made up of at least 3 municipalities/towns. The responsibilities and interrelationships between the state, entity and Brčko District are regulated in the Constitution BiH, but in the daily political life we often see different interpretations of these provisions which directly affects the (lack of) adoption and implementation of laws and other public policy documents (strategies/action plans). The state and both entities have their own constitutions and different government and political systems. Brčko District has its own administrative system and its own Statute as the supreme legislative act, and in terms of jurisdiction it is almost on par with the entities. Laws and other public policies of importance for the improvement of the equality of LGBTI persons are under the jurisdiction of the state, entity, canton and Brčko District. This complexity points at the need for a coordinated approach and developing capacities and raising awareness on the needs of LGBTI persons at all levels of government. The work on improvement of the equality of LGBTI persons must not be solely under the jurisdiction of state and entity level institutions, it is rather important that other institutions, especially at the level of cantons and Brčko District undertake measures in order to revoke systematic discrimination of LGBTI persons and work on improving the equality of LGBTI persons.

At the **state level**, there is a three-member Presidency whose members, a Bosniak, a Croat and a Serb, rotate every eight months in presiding over this institution. The executive government is made up of the Council of Ministers with one presiding member and nine ministries. The state institutions are responsible for foreign, financial and monetary policies, supervision and governance of borders, foreign trade, immigration, refugees and regulation of asylum. One of the ministries within the Council of Ministers BiH is the Ministry for Human Rights and Refugees within which the Gender Equality Agency BiH operates. This Ministry and the Agency itself are of great importance for the improvement of human rights of LGBTI persons. The Institution of the Ombudsperson for Human Rights operates at the level of BiH – national institution for the protection and promotion of human rights - and its three Ombudspersons are responsible for all levels of government. According to the Anti-Discrimination Law, the Institution of the Ombudsperson is also the body competent for all issues regarding

equality (equality body). The legislature (Parliamentary Assembly) is bicameral and consists of the House of Representatives, as the lower house and the House of Peoples as the upper house. The Gender Equality Committee operates within the House of Representatives, while the Constitutional-Legal Committee is the specialized gender-equality body in the House of Peoples. Some of the key laws for LGBTI persons, such as anti-discrimination laws, laws on gender equality, on aliens and asylum are under the state jurisdiction.

Both entities have a president and two deputy presidents. The entity governments have one prime minister and 16 ministers. Although the positions of the upper houses are not identical in the political systems of Republika Srpska and the Federation of BiH, both can be classified as bicameral, each with a 'house of representatives' and a 'house of peoples.' Both entities have gender centres and the entity parliaments also have parliamentary working bodies for gender equality/equality of opportunity. Gender Centres operate within the executive branch, those are government institutions for the improvement of gender equality, which also play a key role in coordinating entity institutions specialised in human and /or minority rights. E.g. labour legislation, criminal legislation related to hate crimes and family legislation are under the jurisdiction of the entities.

Cantons within the Federation of BiH (ten of them) are guaranteed substantive autonomy. The cantons have their governments and single-chamber parliaments. Although the cantons are the third level of government from the top they have the status of federal units and therefore they have matters within their own jurisdiction (like education, employment, healthcare) for which they legislate and produce public policies. Although the Federation of BiH has higher authority than cantons, it sometimes happens that cantons pass legislation which is contradictory to the Federation of BiH regulations and laws, or they fail to implement the existing legislation. The cantons do not have offices/institutions for gender equality and/or human rights within their governments, and only two cantons have coordination committees for gender equality (a working group comprising representatives of different ministries). Almost none of the cantons is undertaking individually any coordinated measures for improving human rights of LGBTI persons.

Brčko District is practically equal to the entities in terms of jurisdiction, despite the fact that it is also a form of a local unit. The District is governed by a Mayor who presides over the government of 10 departments. Laws and other legislation are passed by the Assembly of Brčko District. Brčko District does not have an office/institution for human rights and/or gender equality within its government, but there is a Gender Equality Committee operating in the Assembly. The institutions of the District have not undertaken any measures for the improvement of human rights of LGBTI persons so far.

The highest judicial instances are the three constitutional courts – one for each entity and one at state level. Due to the nature of the political system, BiH does not have a supreme court. The entities have first instance and appellate courts, as well as the entity supreme courts. Brčko District has its own first instance and appellate court. The police are under the competence of the entities and the Brčko District and there are ten cantonal police authorities in the Federation of BiH who share their jurisdiction with the entity police.

Chart of implementing the recommendations in the Special Report on the State of LGBT Rights in Bosnia and Herzegovina by the Institution of Human Rights Ombudsperson of Bosnia and Herzegovina

No.	RECOMMENDATION	INSTITUTION	IMPLEMENTED	NOT IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT POSSIBLE TO CONCRETELY ASSESS
1	A. To act preventively to protect the rights of LGBTI people B. To act timely in the cases of LGBTI human rights violations C. To continue taking measures to strengthen the sensibility in working with the LGBT people D. To take measures within their competences in order to guarantee personal security to anyone exercising their constitutional right to freedom of assembly E. To create a comprehensive training program for the police officers and a Handbook for the education of their employees on LGBT topics in cooperation with the BiH Institution of Ombudsmen for Human Rights	Police Agencies in BiH	B	E	C. One-off or annual permanent educational modules for police officers have been organized, but sporadically on the level of cantons. However, they haven't been continuous nor have they been instituted in the curricula of the police academies or police departments for education as permanent training modules.	A and D
2	A. To continually train judges and prosecutors with a special focus on the human right, and LGBTI human rights B. To continually train judges and prosecutors with a special focus on the human right, and LGBTI human rights	The High Judicial and Prosecutorial Council of BiH Center for Education of Judges and Prosecutors in BiH Center for Education of Judges and Prosecutors in RS			Only CEST FBIH, and in cooperation with the civil society organizations working on LGBTI human rights	

3	To create comprehensive training program for prison officials and a Handbook for the education of their employees on LGBT topics cooperation with the BiH Institution of Ombudsmen for Human Rights	BiH Ministry of Justice FBIH Ministry of Justice RS Ministry of Justice All penitentiary institutions		x		
4	To raise awareness and promote the rights of LGBT people in order to sensitize the general public	Public broadcasting services, as well as all media (print, electronic) in BiH			Everything achieved in this area so far has been initiated by the civil society organizations or happened on the occasion of important dates or public actions	
5	To be more publicly supportive to protection of LGBT human rights when individual human rights violations arise, as well as generally	Holders of public office			Public statements were given by the representatives of the institutions that have competence over LGBTI human rights, but not from the institutions that usually react in the cases of violence, discrimination, or human rights violations	

6	To include protection from discrimination on grounds of sexual orientation and gender identity	Political parties		x		
7	To analyze the content of textbooks and obligatory teaching literature/materials in order to change the treatment of homosexuality as a variant of sexual orientation, and not as a deviation or an illness	Law faculties in Bosnia and Herzegovina		x		
8	To amend the BiH Gender Equality Law to explicitly define sexual orientation and gender identity, as it was done in the BiH Anti-discrimination Law	Parliamentary Assembly of BiH		x		
9	To amend the Law on Registry Books of Brčko District BiH in order to regulate the sex reassignment registry in a manner regulated in laws on registry books in FBiH and RS	Brčko District Assembly		x		
10	To deliberate the possibility of amending the laws on health insurance that would introduce partial or complete coverage of the sex reassignment medical costs	Entity and Brčko District ministries of health		x		
11	To systematically and continuously train medical staff to monitor the process of transition of transsexual persons, and offer needed medical assistance To undertake measures in order to ensure the existence of a medical team that could carry out complete medical process of gender reassignment.	Clinical centres in BiH		x		
12	To legally regulate the same-sex partnership	Parliamentary bodies in BiH		x		

About Sarajevo Open Centre

Sarajevo Open Centre (SOC) advocates the full respect of human rights and social inclusion of LGBTI persons and women. Sarajevo Open Centre is an independent, feminist civil society organisation which strives to empower LGBTI (lesbian, gay, bisexual, trans* and intersex) persons and women by strengthening the community and building the activist movement. SOC also publicly promotes human rights of LGBTI persons and women and it advocates the improvement of public policies in Bosnia and Herzegovina at the State, European and international levels.

Here, we will only mention some of the achievements made in terms of equality of LGBTI people. In addition to psychosocial and legal counselling we also continued running the only LGBTI media outlet in the state – a web portal www.lgbt.ba. We organized trainings for the police, the prosecutor's offices and the courts and we worked intensively on creating a local institutional network of support for LGBTI persons in Sarajevo Canton, improving the recommendation of regulating bio-medically assisted fertilisation in FBiH, the rights of working women regarding the discrimination on the grounds of sex and maternity leave, but also on raising awareness about gender-based violence in BiH. In 2017, several of our legislative and policy initiatives have been submitted to governmental or parliamentary procedures. Our advocacy focuses on issues of policies for the equality of women and LGBTI persons in BiH, the issues of reproductive rights of women and men, parenthood in the context of conciliating the private and the business life, the freedom of assembly of LGBTI persons and improving the institutional framework for the protection against violence and discrimination. In the previous year, we had media campaigns that reached over a million of BiH citizens and we organised the LGBTI film festival Merlinka.

You can find out more about our work at: www.soc.ba.

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