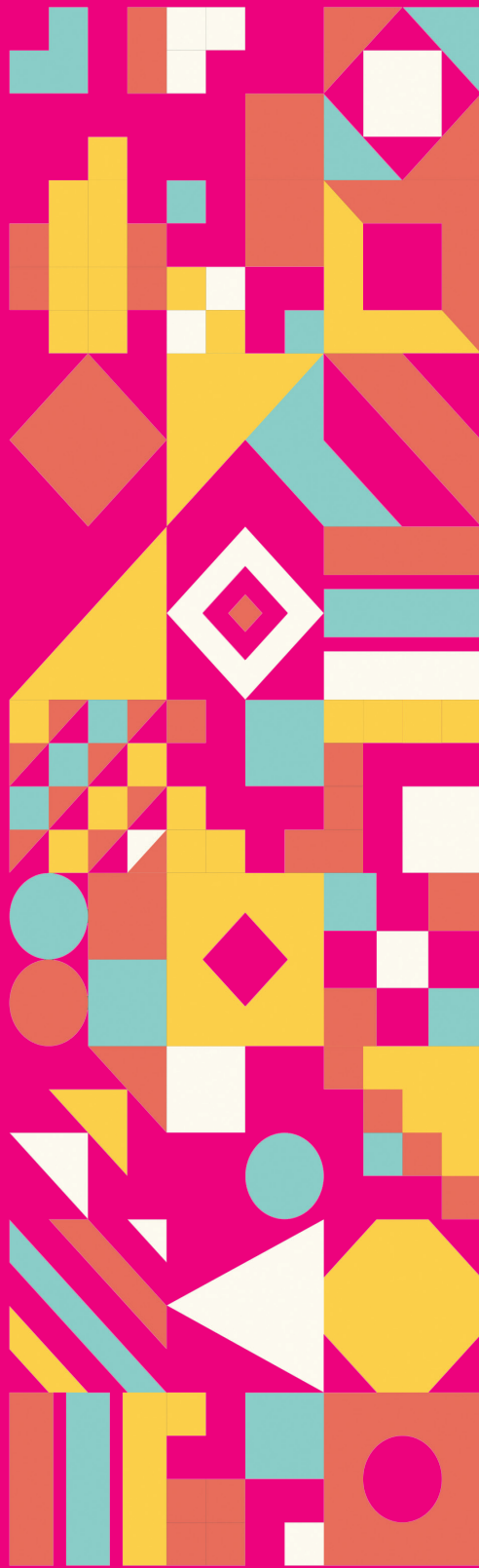


Annual Report on the State of Human Rights of
LGBTI People in Bosnia and Herzegovina

Pink Report

2021



Pink Report 2021

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LGBTI People in Bosnia and Herzegovina

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

SARAJEVO, 2021

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LIST OF ABBREVIATIONS

ADL	Anti-Discrimination Law
BC	Basketball Club
BD BiH	Brčko Distrikt BiH
BiH	Bosnia and Herzegovina
BiH Pride March	Bosnian-Herzegovinian Pride March
BPC	Bosnian-Podrinje Canton
BUKA	Banja Luka Association of Queer Activists
CC of FBiH	Criminal Code of Federation of Bosnia and Herzegovina
CC of RS	Criminal Code of Republika Srpska
CoE	Council of Europe
CEC BiH	Central Election Commission of Bosnia and Herzegovina
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CMS	Case Management System in Courts
CoM BiH	Council of Ministers of BiH
DF/CA	The Democratic Front / Civic Alliance
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
EU	European Union
FBiH	Federation of Bosnia and Herzegovina
CEST FBiH	Judicial and Prosecutorial Training Centre of Federation of Bosnia and Herzegovina
CEST RS	Judicial and Prosecutorial Training Centre of the Republika Srpska
GAP	Gender Action Plan
GC FBiH	Gender Centre of Federation of Bosnia and Herzegovina
GC RS	Gender Centre of the Republika Srpska
GEA BiH	Gender Equality Agency of Bosnia and Herzegovina
HJPC	High Judicial and Prosecutorial Council
LGBTI	lesbian, gay, bisexual, transgender and intersex persons
LGBTI+	lesbian, gay, bisexual, transgender, intersex persons, and other identities from this spectrum
LGBTIQ	lesbian, gay, bisexual, transgender, intersex and queer persons
LoGE	Law on Gender Equality in Bosnia and Herzegovina

MHRR BiH	Ministry of Human Rights and Refugees of Bosnia and Herzegovina
Mol	Ministry of Interior
OC	Organising Committee of Bosnian-Herzegovinian Pride March
OSCE/ODIHR	Organisation for Security and Co-operation in Europe / Office for Democratic Institutions and Human Rights
PE	Public Enterprise
PI	Public Institution
RS	Republika Srpska
SC	Sarajevo Canton
SC Government	Sarajevo Canton Government
SC MIA	Sarajevo Canton Ministry of the Internal
SC MoH	Sarajevo Canton Ministry of Health
SC MoT	Sarajevo Canton Ministry of Transport
SOC	Sarajevo Open Centre
SOGI	sexual orientation and gender identity
SOGIESC	sexual orientation, gender identity and expression, and sex characteristics
TC	Tuzla Canton
TOC	Tuzla Open Centre
WBC	Women's Basketball Club

ABSTRACT

The position of lesbian, gay, bisexual, transgender and intersex people in Bosnia and Herzegovina during 2020 cannot be addressed without analysing the impact of the COVID-19 pandemic, not only on the direct access of LGBTI people to rights and freedoms, but also through the overall response of various institutions to this problem, especially in the context of the accessibility of various services that these institutions should regularly, but also in situations of natural disasters, provide unhindered to their citizens.

As it has done before, this year's Pink Report provides a relevant overview of the current situation and trends in various areas of LGBTI rights and freedoms: equality and protection policies against discrimination, protection from violence and hate speech, specific position and rights of trans and intersex people, asylum issues, freedom of assembly and same-sex partnership. The novelties in this issue are an overview of local activities of organisations dealing with the rights and position of LGBTIQ people, i.e., improvements in the quality of life and institutional action at the local level, and a summary of an extensive study on the socio-economic position of LGBTIQ people in BiH.

During 2020, the LGBTIQ community across the country was thwarted in accessing the certainly small number of safe spaces and limited services of NGOs working with and for LGBTIQ people, and the pandemic and its effects deepened most of the psychosocial problems LGBTIQ people face: from mental difficulties caused by minority stress to an increased incidence of violence. Almost all of the previously mapped needs have been exacerbated, and the problems of LGBTIQ people have increased. Restrictive practices pertaining to freedom of assembly continued in 2020 and they, together with issues of same-sex partnership and the rights of transgender people, remain the priorities in the coming period.

However, 2020 also brought us some positive institutional steps, which confirm the long-term steady growth of Bosnia and Herzegovina on the ILGA-Europe Rainbow Map and index¹ - from 31% in 2019, through over 37% in 2020, to 40% in year of this report.

The progress in the process of adopting the Action Plan for LGBTI Equality in Bosnia and Herzegovina, the working group of the Government of the Federation of Bosnia and Herzegovina for same-sex partnership, and the harmonisation of the law on public assembly in Brčko District with international standards – albeit

¹ ILGA-Europe's annual benchmarking tool, which ranks 49 European countries according to the level of compliance with LGBTI equality policies.

slow within a very complex and inert political system – nevertheless gives hope for a much better quality of life for lesbian, gay, bisexual, transgender, intersex and queer people throughout Bosnia and Herzegovina in the near future.

NEGATIVE PRACTICES AND HUMAN RIGHTS VIOLATIONS

Restrictions on the Freedom of Assembly of LGBTI Citizens in Bosnia and Herzegovina

In 2020, despite the announced amendments to the relevant legislation, there was no significant progress in respecting the freedom of assembly of BiH citizens. Moreover, restrictive measures, introduced to protect health due to the COVID-19 pandemic, were used as a justification for further restrictions on the freedom of assembly of LGBTI people, and for excluding civil society from the process of improving the legislation governing this area.

In July 2020, Brčko District of Bosnia and Herzegovina (BD BiH) adopted the Law on Peaceful Assembly, which is largely in line with international standards, recommendations of the Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Co-operation in Europe, the Venice Commission and the European Commission. Although the Law itself adequately regulates the area of freedom of assembly, civil society was involved only in online public consultations during its drafting. The working group that drafted the Law did not include representatives of the BiH civil society and it exclusively consulted the representatives of the international community.

Although, due to the pandemic, the organisers of the Second BiH Pride March opted for online events and a short car ride through the streets of Sarajevo, their initial notification of the assembly was met with a lack of understanding of the institutions and arbitrary interpretation of the provisions of the Law on Public Assembly of Sarajevo Canton. Namely, after the initial notification of the Pride March, the Ministry of Transport of Sarajevo Canton (MoT SC) refused to grant approval to the organisers for the planned route, scheduled for August 23, 2020, citing financial losses of public transport companies and the pandemic as reasons. Deciding on the organisers' appeal, the Sarajevo Canton Government (SC Government) annulled the decision of the MoT SC three months later, stating that the Ministry did not have the competence to decide whether the assembly would take place or not.

At the end of 2020, the SC Government appointed a working group to draft a law on peaceful assembly in Sarajevo Canton (SC). This Government failed to include civil society representatives in the working group, and after the reaction of Sarajevo Open Centre (SOC) and representatives of the international community, they explained that the reason was the pandemic and restrictions

on the number of people who can attend group meetings. In December 2020, the Ministry of the Interior of Sarajevo Canton (Mol SC) invited professionals and all interested organisations and citizens to participate in public consultations on the Draft SC Law on Peaceful Assembly and the Draft Law on Public Events and Other Forms of Assembly in SC. SOC responded to the invitation and sent a proposal of amendments to the Draft SC Law on Peaceful Assembly.

Overlooking the Needs and Problems of LGBTI People during the COVID-19 Pandemic

The response of the authorities at all levels to direct health related and indirect other effects of the pandemic conditioned by the measures that set restrictions on the movement and operation of economic entities is far from satisfactory. Poor management within the collapsed health system, corruption in procurement of health equipment and cases in which state authorities interfered with and violated the human rights of citizens marked the period from March 2020 onwards.

The few measures that have been planned, with the forthcoming evaluation of their effects, rarely took into account gender or any other dimensions, and were primarily urgent and reactive.²

Therefore, it is not surprising that the problems that lesbian, gay, bisexual, transgender and intersex (LGBTI) people faced during the pandemic were not adequately recognised in the design and formulation of measures and decisions. In early 2020, SOC mapped specific problems and difficulties: domestic violence: physical violence, ban on contact, psychological violence (insults, belittling); job loss; difficulties in partnership; lack of community contact and support; isolation of older LGBTI people, and the lack of access to adequate resources needed by trans people in the transition process.³

Given some of the major global trends and expected crises caused by climate change and migration, institutions in Bosnia and Herzegovina (BiH) need to develop good crisis management and response practices, which should include different aspects and perspectives such as gender, and which should further be inclusive when it comes to the needs of LGBTI people.

2 See the Orange Report 6: 2020 Report on the state of Human Rights of Women in Bosnia and Herzegovina.

3 See Chapter IX COVID-19 and Human Rights of LGBTIQ People in the 2020 Pink Report.

GOOD PRACTICES

Progress in the Adoption of the Action Plan for LGBTI Equality in Bosnia and Herzegovina

During 2019 and 2020, a working group composed of representatives of the state level, Entities, Brčko District and representatives of the nongovernmental sector worked on drafting the 2021-2023 Action Plan for the Promotion of Human Rights and Fundamental Freedoms of LGBTI People in Bosnia and Herzegovina. The entire process was supported by the European Union (EU) and the Council of Europe (CoE), and the document itself is based on Council of Europe Recommendation CM/Rec (2010)5 to member states on measures to combat discrimination on grounds of sexual orientation or gender identity. At the end of 2020, the working group agreed on the final version of the draft document sent to the entity and Brčko District governments for assessment.

The document is based on three strategic goals: 1. Effective mechanisms for protection against discrimination and hate crime against LGBTI people, 2. Equal rights of LGBTI people in all areas of public and private life, 3. Awareness of the need to combat prejudice and stereotypes about LGBTI people. These goals are reflected further in almost all important areas for the human rights of LGBTI people: education and effective protection of LGBTI people throughout the entire police-judicial chain; training of medical workers, and general increase of capacity of relevant institutions for LGBTI rights, analysis of regulations related to same-sex partnership, modalities of gender reassignment for BiH citizens (medical and administrative aspects), a number of activities aimed at raising awareness about the position of LGBTI people in BiH both among the general public and a number of stakeholders from various spheres of society and relevant institutions.

What needs to be emphasised as good practice in this case is the relatively fast process of drafting the document, given the many stakeholders involved, as well as the good and effective cooperation of different governance levels and the involvement of LGBTI human rights NGOs. The final draft of the document constitutes a comprehensive set of measures and policies, which corresponds to the position and needs of LGBTI people in BiH quite well; its adoption would send a message that the BiH state is willing to respond with a systemic and comprehensive solution to a systemic problem, such as marginalisation of LGBTI people in BiH.

In June 2021, after receiving a positive opinion from the governments of Brčko District, the Federation of Bosnia and Herzegovina (FBiH) and the Republika Srpska (RS), the Action Plan was published on the e-consultation page, and is open to public consultations. The next and final step for this framework document to enter into force is its adoption by the Council of Ministers of Bosnia and Herzegovina (CoM BiH).

The Working Group of the Government of the Federation of Bosnia and Herzegovina for Same-Sex Partnership

In February 2020, at its constituent meeting, an Inter-ministerial Working Group began its work by analysing regulations pertaining to same-sex couples and their rights arising from the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). It will propose regulations to be enacted in FBiH. After its constituent session, the Working Group invited representatives of SOC as an organisation that represents LGBTI people and has expertise in this area to join them.

As the constituent meeting coincided with the start of the COVID-19 pandemic in BiH, the Working Group was interrupted until the beginning of 2021. In the period from February to April 2021, the Working Group held three meetings where significant progress was made towards fulfilling its mandate - adopting official conclusions to be presented to FBiH Government as to which regulations need to be adopted and/or amended to eliminate discrimination against same-sex couples in FBiH.

In the Inter-ministerial Working Group, SOC representatives advocated the adoption of a special law that would regulate a number of areas of interest for same-sex partnership in the same way as granted to marital and extramarital partners. For that purpose, the Model Law on Same-Sex Partnerships of the Federation of BiH was presented, which was previously drafted by SOC.⁴

Based on the work of the Working Group so far, it is expected that it will complete its task in 2021 by submitting official conclusions to the Government of FBiH as to which regulations need to be adopted. After the Government of FBiH adopts the conclusions, it will form a new working group to draft the relevant regulations and finally submit them into the legislative procedure.

4 Outside the Law: Regulation of Same-sex Partnership in Bosnia and Herzegovina, Sarajevo Open Centre, 2016. URL: <https://soc.ba/izvan-zakona-pravna-regulacija-zivotnih-zajednica-parova-istog-spola-u-bosni-i-hercegovini/>

Harmonisation of the Law on Public Assembly in Brčko District with International Standards

In July 2020, the Assembly of BD BiH unanimously adopted the Law on Peaceful Assembly.

The working group of the Government of BD BiH closely cooperated with representatives of the international community in drafting this Law, which improves the protection of fundamental rights and freedoms of citizens and incorporates the relevant international human rights standards.

The Law is important because, among other things, it clearly distinguishes between peaceful assembly and public events. The non-demarcation of these two types of assembly is a big problem and difficulty for the organisers of peaceful assemblies in BiH. The fact that peaceful assemblies are treated in the same way as public events puts additional burdens and obligations on the organisers in terms of unreasonable financial resources which, if not provided by the organiser, *de facto* lead to the impossibility of holding peaceful assemblies.

A positive step is certainly the confirmation of BD BiH Police as the central and only institution with which the organisers communicate when informing about peaceful assemblies, which will reduce the possibility of abuse of administrative procedures to *de facto* ban public assemblies.

Given that the recommendations of ODIHR, the Venice Commission and the European Commission are integrated into the text, the Law on Peaceful Assembly of BD BiH is important as a model law that ensures respect for human rights and can serve the Entities and cantons in BiH and improve their laws governing this area.

We should underline that the working group did not include representatives of BiH civil society, and their timely and adequate involvement is important for the quality of regulations and transparency of the process of amending the legislation governing freedom of assembly.

PRIORITY MEASURES TO BE UNDERTAKEN

Adoption of the 2021-2023 Action Plan for the Promotion of Human Rights and Fundamental Freedoms of LGBTI People in Bosnia and Herzegovina

The adoption of a systemic solution through clearly defined public policy measures and activities of competent institutions aimed at improving the position of LGBTI people in BiH has stood for many years as a priority measure that needs to be taken. What is different this year is that the cooperation of competent state bodies, international organisations and the non-governmental sector created a draft of such a document entitled the 2021-2023 Action Plan for the Promotion of Human Rights and Fundamental Freedoms of LGBTI People in Bosnia and Herzegovina and it was submitted for opinions to Entity governments and BD Government.⁵

Therefore, the final adoption of this document and the start of the implementation of the planned activities is a priority measure for 2021.

Adoption of the Law on Same-Sex Partnerships

The current legislation of the BiH Entities does not allow same-sex couples to exercise the socio-economic rights provided for marital/extramarital unions in BiH. Such discrimination against same-sex couples is a direct violation of the rights guaranteed by the BiH Constitution, as well as the European Convention on Human Rights, the provisions of which have constitutional force in BiH.

FBiH authorities have reopened this issue and taken a step forward by forming an Inter-ministerial Working Group, which has begun work. During 2021, the working group held four meetings and it is expected that in 2021 it will submit official conclusions to the FBiH Government as to which regulations need to be adopted to eliminate discrimination against same-sex couples in FBiH. The next steps would be to appoint a working group to draft these regulations and submit them into the parliamentary procedure.

SOC, together with GC FBiH, is also part of this working group, along with the representatives of relevant ministries, and will insist on absolute respect and regulation of all aspects of same-sex couples' family life in BiH.

⁵ For more information, see chapter Good Practices – Progress in the adoption of the Action Plan for LGBTI Equality in Bosnia and Herzegovina.

The authorities of the Republika Srpska (RS) and Brčko District, which failed to initiate this issue so far, should start the process of same-sex partnership regulation as soon as possible.

Legal Recognition of Gender Identity and Coverage of Gender Reassignment Costs through Health Insurance

It is necessary for Bosnia and Herzegovina, its Entities and Brčko District to regulate legal gender reassignment by enacting laws that would systematically and comprehensively stipulate the procedure for change of sex marker in personal documents and a change of the Unique Identification Number. Thus, it is necessary to allow trans persons to change their sex marker based on of their own request and right to self-determination, without requiring any prior medical intervention. Also, it is necessary to implement laws in all three administrative units (RS, FBiH, BD), which would define duties of medical facilities to form teams, equip medical facilities and train professionals who could follow the process and perform gender reassignment medical procedures in Bosnia and Herzegovina, and which would establish the obligation of health insurance funds to cover the costs of these procedures out of the health insurance budget.

Amendment and Harmonisation of Laws Governing Freedom of Assembly of LGBTI People

The lack of harmonisation of laws regulating freedom of assembly in BiH creates legal uncertainty for organisers of public assemblies, and it is necessary to harmonise the relevant laws of Entities and cantons so that all citizens, including LGBTI people, can equally enjoy the right to free assembly.

The recently adopted BD Law on Peaceful Assembly, which is largely in line with international standards and creates an adequate framework for respecting and protecting freedom of assembly, can serve as a model for these changes.

I EQUALITY AND ANTI-DISCRIMINATION

International Standards and Obligations of Bosnia and Herzegovina

The documents presented below are the foundation upon which legislation and public policies in BiH are designed or amended, and a standard that should lead to equality and reduce the discrimination against LGBTI people in BiH.⁶ Their significance arises from Bosnia and Herzegovina's membership in these international and regional organisations, as well as from their position in the BiH legal order.

The principle of non-discrimination defined in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the United Nations' International Covenant on Economic, Social and Cultural Rights (ICESCR), as well as the ECHR,⁷ refers to LGBTI people. 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. Finally, 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 and gender identity (SOGI), is the most concrete international document defining the assessment and revision of current legislative and other measures, their efficient implementation in the combat against discrimination, the collection and analysis of relevant data concerning discrimination, and ways to protect discrimination victims.

National Legal Framework

The prohibition of discrimination against LGBTI people is regulated by two systemic laws: Law on Gender Equality in BiH (LoGE) from 2003 and Anti-Discrimination Law (ADL) from 2009. While LoGE, which prohibits discrimination on the basis of "sexual expression and/or orientation", is declarative in nature⁸ in the context of protecting LGBTI people against discrimination, ADL offers comprehensive

6 This international framework also applies to other areas and is not explicitly mentioned in other chapters.

7 According to Article 2, point 2, the rights and freedoms provided for in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols are directly applicable in Bosnia and Herzegovina. These acts have the character of constitutional norms and priority over all other acts.

8 Although the Law on Gender Equality mentions "sexual expression and/or orientation", it does not set forth the mechanisms for the protection of LGBTI people from unequal treatment, 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.

protection against discrimination in all aspects of public life, including education, employment, healthcare, access to services, etc. ADL explicitly protects LGBTI people from discrimination by stating **sexual orientation, gender identity and sex characteristics (SOGISC)** among the prohibited grounds for discrimination.

Although the ADL stipulates the obligation to harmonise laws at the state, entity and cantonal levels with it, there is still a large number of laws that do not include SOGISC as grounds on which discrimination is prohibited.

Institutional Action Aimed at Protection Against Discrimination

Although the institutional anti-discrimination framework remains extremely weak, there has been some progress (although slow, insufficient and reactionary), when it comes to protecting LGBTI people from discrimination.

In the recent period, the **Gender Centre of FBiH** has led the process of and advocated for the adoption of the Gender Action Plans (GAP) for the cantons, and advocated that these documents be LGBTI inclusive. The representative of this body is also a member of the Inter-ministerial Working Group for Same-Sex Partnerships in FBiH, where she actively advocates the inclusion of civil society organisations dealing with LGBTI human rights.

The **Gender Equality Agency of BiH (GEA BiH)** was the body that, on behalf of the Ministry of Human Rights and Refugees of Bosnia and Herzegovina (MHRR BiH), led the process of and coordinated with other state bodies the drafting and development of the 2021-2023 Action Plan for the Promotion of Human Rights and Fundamental Freedoms of LGBTI People in Bosnia and Herzegovina.

Gender Centre of the Republika Srpska (GC RS) had no significant activities related to the human rights of LGBTI people.

The **Institution of the Human Rights Ombudsman of Bosnia and Herzegovina** contributed to the development of the 2021-2023 Action Plan for the Promotion of Human Rights and Fundamental Freedoms of LGBTI People in Bosnia and Herzegovina through the presentation of the level of implementation of the 2017 Special Report recommendations.⁹ Also, the Institution has recorded cases related to hate speech against LGBTI people, which will be presented in a special report on hate speech.

⁹ Special Report on the Rights of LGBTI people in BiH, Banja Luka, 2016.

During 2020, Institution of Human Rights Ombudsman of BiH received a total of two complaints, one on the grounds of sexual orientation, and one based on sex characteristics.

None of the BiH Entities provides continuous training of the judiciary representatives, which would be focused on the human rights of LGBTI people, although it is one of recommendations made by the Institution of Ombudsman in its 2016 Special Report.¹⁰

In cooperation with Judicial and Prosecutorial Training Centre of Federation of Bosnia and Herzegovina (CEST), Sarajevo Open Centre continued the practice of holding trainings for judges and prosecutors, focused on the human rights of LGBTI people and, in 2020, held a two-day training course for prosecutors and judges on discrimination and hate crime against LGBTI people.

In 2020, cooperation started with the Judicial and Prosecutorial Training Centre of the Republika Srpska (CEST RS), and training was agreed according to the plan already implemented with CEST FBIH on the topic of LGBTI human rights. However, the planned training had to be postponed to 2021 due to the pandemic.

Public Policies for Combating Discrimination against LGBTI People

At the end of 2020, the final draft of the **2021-2023 Action Plan for the Promotion of Human Rights and Fundamental Freedoms of LGBTI People in Bosnia and Herzegovina** was completed as a comprehensive set of measures and public policies aimed at improving the position of LGBTI people in BiH.¹¹

It is noteworthy that the document largely focuses on anti-discrimination issues in all spheres of society. Primarily through training of judicial office holders on discrimination, training of health care professionals, capacity building of relevant institutions, but also a series of proactive measures aimed at raising awareness about discrimination among the general public and relevant representatives of public authorities.

With respect to the process of **GAPa** adoption that GC FBIH implemented in the cantons with the coordination of SOC, until this report, such document

¹⁰ Special Report on the Rights of LGBTI people in Bosnia and Herzegovina, Banja Luka, September 2016

¹¹ For more information, see chapter Good Practices – Progress in the adoption of the Action Plan for LGBTI Equality in Bosnia and Herzegovina.

was adopted only in SC and Bosnian-Podrinje Canton (BPC). These documents, although primarily intended to address gender equality and elimination of discrimination on the ground of gender, often contain LGBTI inclusive measures.¹² Currently, only GAP SC contains such measures.

Documented Cases

Every third LGBTI person in BiH has experienced discrimination. However, it is worth remembering that only a small number of LGBTI people out themselves to a wider circle of people. So, the percentage of 38% of LGBTI people who confirmed to have experienced some form of discrimination could be attributed to the fact that LGBTI people generally conceal their identity. The high percentage of transgender persons who have experienced discrimination is particularly alarming: about 2/3 of transgender persons, included in the 2017 research on problems and needs of the LGBTI community in BiH, experienced some form of discrimination, which only confirms the particularly vulnerable status of this category and suggests a high level of transphobia in the society. To some extent, this can be explained by the fact that transgender persons have a harder time concealing their identities, given that gender expression is usually visible to the environment.¹³

In 2020, Sarajevo Open Centre documented five complaints from LGBTI people that they have experienced discrimination.

Of these 5 complaints, two refer to access to goods and services, two to labour, and one to health. Four complaints relate to discrimination on the ground of sexual orientation and one on the ground of sex characteristics. Of the five cases, only one case – the one that refers to the workplace – has been reported in internal procedures of the company; the victim claims that the perpetrators have been sanctioned internally and that the victim's position at work has improved. The other four complaints have not been or are not known to have been reported through any known mechanism.

Although the aforementioned data indicate a small number of discrimination cases, it is impossible to derive definitive conclusions based on these numbers, given that the number of LGBTI people willing to engage into litigation is very small, which also applies to other marginalised groups protected by the ADL.¹⁴

12 See: Pink Report 2020, Chapter Good Practices - Adoption of the LGBTI Inclusive Gender Action Plan in Sarajevo Canton

13 Amar Numanović (2017). Numbers of Equality 2: Analysis of the results of the 2017 research on problems and needs of LGBTI people in Bosnia and Herzegovina. Sarajevo: Sarajevo Open Centre

14 Litigations must be initiated independently, without the ex officio actions of the institutions.

There is still not a single final ruling establishing discrimination on the grounds of sexual orientation and gender identity.

At the time of this report, SOC is conducting two strategic civil proceedings at courts regarding discrimination in access to goods and services and invoking and inciting discrimination. The first case is in appeal proceedings at the Cantonal Court in Sarajevo after the the first instance court decided that there was no discrimination, and the second case is at the Municipal Court in Sarajevo and the first hearing is currently pending.

Passivity of the judiciary and lack of proactive combat against discrimination of LGBTI people by executive bodies resulted in the community's distrust in the institutions responsible for human rights protection (87% of surveyed LGBTI people do not trust the judiciary), which also contributes to the small number of reported discrimination cases.¹⁵

The following table presents discrimination cases recorded by SOC in the past three years. These numbers represent cases monitored by SOC in public, or reported by LGBTI people, through the internal system of documentation of human rights violations of LGBTI people. Considering the fact that the level of confidence of LGBTI people in institutions is still very low, there is not a single court ruling establishing discrimination. Therefore, it is not possible to give an answer about trends and frequency of discrimination over the years based on this table. However, it can be concluded that discrimination is present and recorded in the majority of areas mentioned by the law.

	2018	2019	2020	TOTAL
GROUND^{16, 17}				
Sexual orientation	4	3	4	11
Gender identity	2	1	0	3

15 Amar Numanović (2017). Numbers of Equality 2: Analysis of the results of the 2017 research on problems and needs of LGBTI people in Bosnia and Herzegovina. Sarajevo: Sarajevo Open Centre

16 Some of the documented cases are related to both sexual orientation and gender identity, which is why the number of cases per ground is higher than the total number of documented cases per year.

17 Sex characteristics (related to intersex persons) have been incorporated in the Anti-Discrimination Law since 2016, but we have not recorded any discrimination cases on this ground yet.

Sex characteristics	0	0	1	1
AREA				
Education	0	0	0	0
Access to goods and services	1	0	2	3
Employment and labour relations	3	2	2	7
Healthcare	0	2	1	3
Other ¹⁸	1	2	0	3
TOTAL FOR THE YEAR	6	4	5	15

Table 1. Sarajevo Open Centre's data on SOGI-based discrimination cases

Guidelines for Further Action

1. Implement the ADL through the development and adoption of multi-annual public policies on equality of LGBTI people on state, Entity and Brčko District levels, which would foresee specific and realistic measures for equality of LGBTI people;
2. Based on recommendations from the Special Report of the Ombudsman Institution, improve laws and regulations, and include the rights and needs of LGBTI people into all public policies at all government levels, thereby ending the institutional neglect of this marginalised group;
3. Introduce LGBTI specific modules in education of future judges and prosecutors;
4. 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 on grounds of SOGIESC;
5. Establish an accountability system of the judiciary and other bodies that do not apply the principle of urgency in all proceedings in which allegations of discrimination are investigated, including the SOGIESC-based cases.

¹⁸ This section relates to other different areas specified by the Law, such as public authorities, housing, social protection, goods and services intended for the public and public places, and the performance of economic activities and public services.

II HATE CRIME AND INCITEMENT TO HATRED

Legal Framework

All three criminal codes: FBiH, RS and Brčko District, recognise the institute of hate crime (in Brčko District, hate counts as an aggravating factor), within which they provide protection to LGBTI people and other marginalised social groups.

The criminal offense of incitement to hatred and violence, however, is regulated differently in the Criminal Code of the Republika Srpska (CC RS) than in the criminal codes of the Federation of BiH (CC FBiH) and BD. Public incitement to violence and hatred in the RS is thus prohibited on the grounds of *nationality, race, religion or ethnicity, colour, sex, sexual orientation, disability, gender identity, origin or any other characteristic*; while in FBiH and BD it is limited exclusively to *inciting intolerance or hatred on national, ethnic and religious grounds*.

Therefore, criminal codes of FBiH and Brčko District should be amended as it has been done in the Republika Srpska, in order to harmonise the laws, and provide adequate protection to LGBTI people and members of other marginalised groups.

Institutional Action

In September 2020, SOC held a two-day training for prosecutors and judges on discrimination and hate crime against LGBTI people in cooperation with CEST FBiH.

The **High Judicial and Prosecutorial Council of BiH (HJPC)** has improved its CMS system in 2019 by **supplementing the codebook and enabling entry of data on the forms, types and grounds of discrimination**. During 2020, the HJPC explored options to improve the system for automatic case management in courts (CMS) in terms of introducing adequate new fields which will show against which protected characteristic a specific hate crime has been committed. According to the current work plan, in 2021, the HJPC BiH will finalise the analysis of hate crime proceedings and create an action plan thereon.

In February 2020, the **Ministry of Family, Youth and Sports of the Republika Srpska** and the **Basketball Association of the Republika Srpska** condemned the actions and posts on the portal of the Basketball Club Mladi Krajišnik Banja Luka, after the final RS Cup match played in Banja Luka between basketball club

(KK) Mladi Krajišnik and the women's basketball club (ŽKK) Orlovi. In the posts, the secretary of KK Mladi Krajišnik labelled the basketball players of ŽKK Orlovi, among other things, "a legion of foreigners and old women, promoters of the LGBT movement".

Documented Cases

In September 2020, the **Central Election Commission of BiH (CEC)** confirmed the violation of the Election Law and made a decision to fine the coalition Demokratska fronta/Građanski savez (DF/GS) in the amount of BAM 1,500 and the candidate Adna Pandžić in the amount of BAM 3,000. The complaint to the CEC was submitted by the Organising Committee (OC) of BiH Pride March in August 2020, after Adna Pandžić called the pride march a "shame march" on her Facebook profile, stating that LGBTIQ people cannot be classified under any normal pattern of behaviour. In its decision, the CEC stated that "this statement both encourages and justifies an attack on sexual orientation and discriminates against members of that group, which is unacceptable in today's society".

The Court of BiH annulled the CEC decision in October 2020, explaining that the disputed post was published before the election campaign and that, although the CEC correctly established the facts related to prohibited speech, it could not establish a violation outside the election campaign period applying the provisions governing the rules of conduct during the campaign.

In 2020, SOC documented **2 cases of hate speech and incitement to violence and hatred, and 14 cases of crimes and incidents motivated by bias on the grounds of SOGI.**

Of the 14 cases documented from January to December 2020, five took place in the public and/or online spheres, and four referred to cases of domestic violence.

In 2018, seven cases of homophobic and transphobic peer violence were recorded, while in 2019, there was 1 such case.

	2018	2019	2020	TOTAL
GROUND				
Sexual orientation	24	15	12	51
Gender identity	7	0	0	7
SOGI ¹⁹	2	1	2	5
TOTAL	33	16	14	63
TYPE OF HATE CRIME				
Domestic violence	9	2	4	15
Peer violence	7	1	0	8
Threats	5	7	4	16
Other	12	6	6	24
TOTAL	33	16	14	63

Table 2. Sarajevo Open Centre's data on SOGI-based hate crime

HATE SPEECH	2018	2019	2020	TOTAL
GROUND				
Sexual orientation and/or gender identity	39	105	2	146
TOTAL FOR THE YEAR	39	105	2	146

Table 3. Sarajevo Open Centre's data on SOGI-based hate speech

19 Sexual orientation and gender identity

Guidelines for Further Action

1. Amend the criminal codes of FBiH and BD, and expand the provisions on incitement to hatred and violence so that they include SOGIESC as protected grounds;
2. With the aim of fighting homophobia and prejudice within the institutions, constantly educate, train and inform prosecutors, judges, police officers and civil servants on hate crime, incitement to hatred and violence against LGBTI people;
3. 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 and on the SOGIESC grounds; adoption of protocols on joint action between the police and prosecutor's offices in hate crime cases;
4. Introduce LGBTI inclusive modules in curricula and programmes in law schools and police academies, in the permanent and specialist programmes for police officers training and civil service exams;
5. 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;
6. Training of university teachers and the academia to make them more sensitive in working with LGBTI people - to be able to recognise, denounce and avoid the use of hate speech towards LGBTI people.

III FREEDOM OF ASSEMBLY

Legal Framework

With the exception of the Law on Peaceful Assembly of Brčko District, adopted in July 2020, the current legal framework (10 cantonal laws and the Law on Public Assembly of the Republika Srpska) that regulates this area is non-harmonised and offers different definitions and interpretations of basic terms such as: the notion of public assembly, types of public assembly, space provided for public assembly, content of application and issuance of permits for public assemblies, obligations of organisers and obligations of competent bodies, decision making on public assemblies. Such legal framework is an obstacle for BiH citizens in exercising their right to freedom of assembly and other constitutionally and legally guaranteed rights²⁰.

Institutional Action

In addition to tendencies to harmonise the legal framework in FBiH,²¹ and the efforts of civil society and representatives of the international community to encourage amendments to laws in this field and improve cooperation between the institutions and civil society, 2020 was also marked by restricting the freedom of assembly and narrowing the space for civil society organisations.

Although the adopted BD Law on Peaceful Assembly combines the recommendations of ODIHR, the Venice Commission and the European Commission, the working group did not include representatives of BiH civil society and they were only consulted in a public consultation process.

In 2020, despite the announced amendments to the relevant legislation, there has been no significant progress in respecting the freedom of assembly of BiH citizens. Moreover, restrictive measures, introduced to protect health due to the COVID-19 virus pandemic, were used as a justification for further restricting the freedom of assembly of LGBTI people and excluding civil society from the

20 The right to freedom of assembly in BiH is regulated by a number of laws and bylaws: the Constitution of BiH, constitutions of the Entities and cantons, the Statute of Brčko District, laws on freedom of assembly of the Entities and cantons, but is also protected by international documents ratified or adopted by BiH into its legal system, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms.

21 During 2018, the MoI FBiH worked on a preliminary draft law on public assembly at the level of the Federation of BiH, which the Organisation for Security and Co-operation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR) assessed as restrictive, and made recommendations for its improvement. However, the process was stopped due to the delay in establishing the government and no concrete activities have continued to improve the draft.

process of improving the legislation governing this area.

The SC Government also failed to include civil society in the working group that drafted the SC law on peaceful assembly, which it appointed at the end of 2020. After the reaction of SOC and representatives of the international community, they explained that the reason was the pandemic and restrictions on the number of people who can attend group meetings.

In this case, civil society got involved in the drafting only through the process of public consultations, when in December 2020, the SC MoI invited the professionals and all interested organisations and citizens to participate in public consultations on the Draft SC Law on Peaceful Assembly and the Draft Law on Public Events and Other Forms of Assembly in SC.

SOC responded to the invitation and submitted a proposal for amendments to the Draft SC Law on Peaceful Assembly, requesting that:²²

- The location of assembly refers to any space. Namely, international standards recommend that location restrictions on freedom of assembly should not be of an exclusive nature, i.e., that they should not be attributed to precisely designated places in all circumstances; therefore, our proposal provided a general definition of which places could be excluded, with an assessment of all individual circumstances prescribed by other provisions.
- The envisaged ban on incitement to hatred extends to hatred directed at a particular person or group because of their gender, and SOGI.
- That one body be competent and responsible for deciding on notification of public assembly, to make the whole procedure as passable as possible. Our proposal foresaw that the organiser indicates in the notification to the interior affairs authority whether the assembly will take place on the road and that only one competent (police) body decides on the notification, in light of the circumstances, instead of having two special procedures prescribed when it is necessary to stop traffic or when the assembly takes place on the road. Centralising the decision on the notification would ease the obligations imposed on the organiser, which should be the main goal of the procedure.
- To exclude the envisaged penal provisions from the Draft because the penalties are provided for in other regulations, primarily in the regulations on public order and peace, or criminal codes in case of serious violations, to avoid double regulation. According to international standards, laws regulating the right to freedom of assembly should not aim to punish or prescribe numerous offenses and accompanying sanctions.

22 <https://soc.ba/poslan-prijedlog-amandmana-na-nacrt-zakona-o-mirnim-javnim-okupljanjima-na-podrucju-ks/>

Documented cases

Although, due to the pandemic, the organisers of the Second BiH Pride March opted for online events and a short car ride through the streets of Sarajevo, their initial notification of the assembly met with a lack of understanding of the institutions and arbitrary interpretation of the provisions of the Law on Public Assembly of Sarajevo Canton.

Namely, the initial notification of the Pride March, which included a protest march and a walk on the streets of Sarajevo, was met with a lack of understanding of the institutions and a misinterpretation of the SC Law on Public Assembly.

The Ministry of Transport of Sarajevo Canton (MoT SC) refused to grant approval to the organisers for the planned route, scheduled for August 23, 2020, citing financial losses of public transport companies and the pandemic as reasons. Deciding on the organisers' appeal, the SC Government annulled the decision of the MoT SC three months later, stating that the Ministry did not have the competence to decide whether the assembly would take place or not.²³

Guidelines for Further Action

1. Adopt a law on the level of 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 the constitutional rights 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:
 - 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 the possibility of banning/restricting assemblies only 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;
 - Banning an assembly should be possible only in a limited number of cases, i.e., when there is real danger; the

²³ <https://soc.ba/sloboda-okupljanja-iskustvo-organisatora-ica-bh-povorke-ponosa/>

law should not list individual places that are particularly likely to result in a ban (consistent implementation of the proportionality principle);

- The law should define efficient and effective legal protection procedures to contest the ban of public assembly, particularly through emergency court procedures;
 - The law should clearly stipulate that only interior affairs bodies 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;
2. Clearly define that laws/provisions on temporary use of public space (e.g., Law on Temporary Use of Public Spaces in Sarajevo Canton) cannot apply to peaceful assemblies of citizens and citizens' associations in BiH, and that such public assemblies in public spaces cannot be dependent on permissions of institutions/other legal entities occupying such public space;
 3. Improve the existing legislation in order to clearly define the differences between the protection of citizens' right to freedom of assembly, and commercial public gatherings and events; and to prevent shift of responsibility for securing the events from competent internal affairs institutions to private agencies, whose engagement presents additional financial burden on organisers of non-profit assemblies.

IV FAMILY LIFE AND SAME-SEX PARTNERSHIP

Legal Framework

The relationships between same-sex partners and their partnerships are not regulated in any administrative unit in BiH (FBiH, RS, BD). In this way, LGBTI people are unable to claim their constitutionally guaranteed rights to freedom and safety, private and family life and home, to starting a family, protection of property, or freedom of movement and residence. The obligation of BiH to regulate same-sex partnerships arises from BiH membership in the CoE and from the decisions of the European Court for Human Rights. Several recommendations by the CoE bind the member states to respect private and family life of each and every individual and to enable the rights of same-sex partnerships that would be at least legally equal to the rights of heterosexual extramarital couples.

Institutional Action

When it comes to same-sex partnerships in BiH, institutional action is only visible in FBiH, where the FBiH Government has raised the issue of regulating the status of same-sex partnership. Thus, in February 2020, at its constituent meeting, ***an Inter-ministerial Working Group began its work by analysing the existing regulations to suggest new solutions which need to be adopted in FBiH to enable same-sex partnerships to exercise the rights arising from the ECHR²⁴²⁵***. After its constituent session, the Working Group invited representatives of SOC as an organisation that represents LGBTI people and has expertise in this area to join them.

As the constituent meeting coincided with the start of the COVID-19 pandemic in BiH, the Working Group was interrupted until the beginning of 2021. In the period from February to April 2021, the Working Group held three meetings where significant progress was made towards fulfilling its mandate - adopting official conclusions to be presented to FBiH Government as to which regulations need to be adopted and/or amended to eliminate discrimination against same-sex couples in FBiH. In the Inter-ministerial Working Group, SOC representatives advocated the adoption of a special law that would regulate a number of areas of interest for same-sex partnership in the same way as granted to marital

²⁴ Hereinafter: the working group.

²⁵ The working group is composed of representatives of the Office of the Prime Minister of FBiH, the FBiH Ministry of Justice, the FBiH Ministry of Labour and Social Policy, the FBiH Ministry of Interior, the FBiH Ministry of Health, the FBiH Gender Centre.

and extramarital partners. For that purpose, the Model Law on Same-Sex Partnerships of the Federation of BiH was presented, which was previously drafted by SOC²⁶.

Based on the work of the Working Group so far, it is expected that it will complete its task in 2021 by submitting official conclusions to the Government of FBiH as to which regulations need to be adopted. After the Government of FBiH adopts the conclusions, it will form a new working group to draft the relevant regulations and finally submit them into the legislative procedure. Looking at the previous process and what lies ahead, it is clear that with this dynamic, same-sex couples will have to wait a long time until their status is regulated in FBiH.

SOC's 2017 research indicates that non-regulation of same-sex partnership is one of the most problematic aspects, but also the issue which is equally necessary for LGBTI people and for all other citizens, as two-thirds of respondents said the inability to conclude partnerships is a very important problem. Furthermore, the fact that more than two-thirds of respondents live or plan to live with their partner, and that more than half of them would conclude a same-sex partnership if they were allowed to, gives a clear enough picture of the discrepancy between the needs of LGBTI people on one side, and the government's neglect of this issue on the other.²⁷

Documented Cases

During 2020, **three couples contacted SOC looking for information on same-sex partnership/marriage**. All three inquiries referred to the possibility of concluding a marriage/partnership as BiH citizens abroad as well as the status and effect of that relationship in BiH.

Presently, two cases are active in the BiH courts²⁸ related to LGBTI people seeking rights that arise directly from issues of same-sex partnerships and family life. They refer to the issue of inheritance and recognition of a same-sex partnership concluded abroad. These are just two examples in which SOC is directly involved, and which concern life issues that are fully regulated for all other citizens of BiH, except for LGBTI people.

26 Outside the Law: Regulation of Same-sex Partnership in Bosnia and Herzegovina, Sarajevo Open Centre, 2016. URL: <https://soc.ba/izvan-zakona-pravna-regulacija-zivotnih-zajednica-parova-istog-spola-u-bosni-i-hercegovini/>

27 Amar Numanović (2017). Numbers of Equality 2: Analysis of the results of the 2017 research on problems and needs of LGBTI people in Bosnia and Herzegovina. Sarajevo: Sarajevo Open Centre.

28 Names and details are known to Sarajevo Open Centre.

Guidelines for Further Action

1. Proposing legal regulations and solutions by the Inter-Ministerial Working Group of the FBiH Government, which would systematically resolve legal issues of same-sex partnerships in BiH, and address them to the parliamentary procedure.
2. Initiate processes for the adoption of legislative solutions on same-sex partnerships both in the RS and BD, in order to provide same-sex couples with equal treatment on this issue countrywide.

V RIGHTS OF TRANSGENDER PERSONS

Legal Framework

Transgender persons in BiH can only change the sex marker in their official documents and the Unique Identification Number after a “complete” medical gender reassignment treatment, which implies mandatory surgeries of reassignment of all secondary sex characteristics. These surgeries have to be undergone abroad, as medical facilities in BiH do not have the staff trained to provide support to persons in the transition process. Following the review of the documentation brought from abroad, the ministries of interior retract the old Unique Identification Number and issue a new one, together with a decision on the grounds of which a person can proceed with a change of the rest of their documents. The costs of the medical gender reassignment treatment are covered by transgender persons, and not the state-funded health insurance. This fact additionally prolongs the transition process and increases the financial costs.²⁹

Institutional Action

Regarding legal recognition of gender identity and medical gender reassignment treatment, no concrete institutional actions have been undertaken in the past period.

At the initiative of SOC, in SC 2019-2022 GAP under the goal *Improved Sexual and Reproductive Health*, the plan is that the SC Ministry of Health will, by the end of 2020, draft a *Guide for Health Professionals on the Best Treatment of Transgender and Intersex Persons*; adopt the *Rulebook on Gender Reassignment in Sarajevo Canton Medical Facilities*; and initiate the accreditation of the *Health Care Workers’ Program in the Field of Providing Gender-Sensitive and Sexual and Reproductive Health Services to General and Multiple Marginalized Populations*. By the time this report was published, no guide, rulebook or program had been developed, and the GAP Implementation Coordination Committee held only one session, which was not attended by all members.

Within the set strategic goals, the draft version of the Action Plan for the Promotion of Human Rights and Fundamental Freedoms of LGBTI people in BiH for the period 2021-2023 recognizes the need to improve the social inclusion of transgender persons, who are particularly marginalized, and undertakes

²⁹ A more detailed overview of the legal framework as well as the social realities for transgender persons is available in earlier annual editions of the Pink Report.

the following activities that can contribute to position of transgender persons: *analysis and promotion of existing modalities of gender reassignment for BiH citizens (medical and administrative aspects), and training of professionals in the field of health care, education, social protection, labour and employment on the rights and freedoms of LGBTI people.*

Social Reality

In 2018, SOC developed the gender reassignment cost assessment, and provided recommendations for the improvement of legal and medical approach to transgender persons in BiH.³⁰

Since transgender persons from BiH mostly seek certain healthcare services related to gender reassignment in neighbouring countries, **SOC has initiated a series of activities since 2018, to facilitate and provide transgender persons in Bosnia and Herzegovina access to trans inclusive healthcare and services.**

Since 2018, SOC has been organising trainings for BiH medical professionals from various branches of medicine, on the medical aspects of gender reassignment, human rights and the needs of trans persons within the healthcare system.³¹ The publication *Medical Aspects of Sex Reassignment: Manual for Medical Professionals and Healthcare Workers on the Provision of Services and Support to Trans Persons in the Transition Process*³² is a resource intended to help the domestic healthcare workers. The manual combines activist and medical discourse and experiences in working with trans persons, and the authors are trans activists and medical experts from Croatia, Montenegro and BiH.

On the grounds of previous activities, and the needs of training participants and trans persons in BiH to have the names and contacts of doctors and psychologists in one place, who can be reached for trans-specific care and support, a **list of experts in BiH** was also created. All the experts from the list have undergone training and are sensitized to trans inclusive support and health care. The list is published on SOC website.³³

30 IsiĆ, Liam (2018). Cost Assessment of Gender Reassignment: Recommendations for Improving the Legal and Medical Approach to Transgender Persons in Bosnia and Herzegovina. Sarajevo: Sarajevo Open Centre, available at: <https://soc.ba/procjena-troskova-prilagodbe-spola-preporuke-za-unapredenje-pravnog-i-medicinskog-pristupa-transrodnim-osobama-u-bosni-i-hercegovini/>

31 More about the activities of education and sensitisation of medical experts available at: <https://soc.ba/programi/lgbt/zagovaranje/trans/>

32 Manual available at: https://soc.ba/medicinski-aspekti-prilagodbe-spola-prirucnik-za-medicinske-strucnjake_inje-i-zdravstvene-radnike_ce-o-pruzanju-usluga-i-podrske-trans-osobama-u-procesu-tranzicije/

33 Map available at: <https://soc.ba/mapa/>

Documented Cases

Through its legal counselling service, SOC receives inquiries from LGBTI people about their human rights. **During 2020, three trans persons contacted SOC with inquiries related to legal recognition of gender reassignment, as well as one person who wanted to go through the process of medical gender reassignment (psychological support).** The Transgender Advocacy Coordinator **was approached by eight trans people** asking for advice on the transition - hormone procurement, sensitized medical experts and the possibilities of medical gender reassignment in BiH.

Guidelines for Further Action

1. It is necessary for BiH, its Entities and Brčko District to regulate legal gender reassignment by enacting laws that would systematically and comprehensively stipulate the procedure for change of sex marker in personal documents and a change of the Unique Identification Number. Thus, it is necessary to allow trans persons to change their sex marker based on their own request and right to self-determination, without requiring any prior medical intervention;
2. Sarajevo Canton should implement activities and goals from the GAP, which include the establishment of clear guidelines for health professionals on adequate treatment of transgender and intersex persons in BiH, i.e., adopt the Rule Book on Gender Reassignment in Sarajevo Canton Medical Facilities;
3. Sarajevo Canton should make sure that health workers provide gender sensitive health services and also ensure the improvement and promotion of sexual and reproductive health of trans persons;
4. BiH should adopt and then implement the measures from the Action Plan for the Promotion of Human Rights and Fundamental Freedoms of LGBTI people in Bosnia and Herzegovina for the period 2021-2023 concerning the medical and legal aspects of gender reassignment;
5. Adopt and implement laws in all three administrative units (the Republika Srpska, the Federation of BiH and Brčko District), which would define duties of medical facilities to form teams, equip medical facilities and train professionals who could follow the process and perform gender reassignment medical procedures in BiH, and which would establish the obligation of health insurance funds to cover the costs of these procedures out of the health insurance budget;

6. In parallel to the above, it is necessary to continuously and systematically educate BiH medical professionals and healthcare workers in the fields of psychology, psychiatry, endocrinology, gynaecology, urology, plastic, reconstructive and aesthetic surgery on adequate, trans inclusive and trans specific provision of services and support to trans persons in the transition process.

VI HUMAN RIGHTS OF INTERSEX PERSONS

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 grounds of sex characteristics.

However, there are still no clear medical guidelines and procedures on practices in different cases of intersexuality, which would be applied to all medical facilities in BiH and prevent the so-called medical sex normalisation, i.e., medical and surgical treatments of new-borns 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 baby's health is not jeopardized. A great number of intersex persons and medical professionals are advocating that any aesthetic medical procedure should be postponed until the moment when children can provide their informed consent.³⁴

Institutional Action

At the initiative of SOC, in SC GAP for the period 2019 to 2022 the goals and activities of cantonal institutions for this period were determined. One of the goals is *Improved Sexual and Reproductive Health*, in the scope of which the following activities were planned: drafting a *Guide for Health Professionals on the Best Treatment of Transgender and Intersex Persons*; *legally regulate medical and legal proceedings in the case of intersexuality by drafting a Rule Book on Gender Reassignment in Sarajevo Canton Medical Facilities*; which Sarajevo Canton Ministry of Health should implement by the end of 2020. By the time this report was published, no guide had been created or steps had been taken to regulate medical and legal procedures, and the GAP Implementation Coordination Committee held only one session, which was not attended by all members.

Within the set strategic goals, the draft version of the Action Plan for the Promotion of Human Rights and Fundamental Freedoms of LGBTI people in BiH for the period 2021-2023 recognizes the need to improve the social inclusion of intersex persons, who are particularly marginalized and invisible, and commits to contributing to the following activities to improve the position of intersex persons: *training of professionals in the field of health care, education, social protection, labour and employment on the rights and freedoms of LGBTI people*.

³⁴ For more information on this topic, refer to earlier reports, in particular Chapter VI - Human Rights of Intersex Persons.

Social Reality

Due to the lack of research and analysis of the human rights situation of intersex persons in the BiH healthcare and legal system, SOC published **research on the rights of intersex children in the BiH healthcare system** in 2020³⁵. The aim of the research is to continue and deepen the monitoring of the state of the rights of intersex persons among medical professionals who work with these patients, in order to gain a clear overview of the medical practices that have been used. The research aims at raising awareness on the problems of intersex persons and revising outdated medical classifications.

Analysis of responses from health institutions and institutions (ministries of health, health insurance institutes, clinical centres) reveals that in BiH, the concept of intersexuality is not defined in legislation, that there are no records on the number of children born with intersex characteristics or clear, medically established procedures/guidelines for addressing cases of intersexuality, and that it is unclear how parents/guardians of intersex children are aware of the risks of certain medical treatments.

The research, and particularly the lack of cooperation between competent health institutions and SOC in its implementation, raised the question of how well the principle of the child's best interests, i.e., the child's right to bodily integrity during medical treatment, is upheld. It is unclear and debatable what happens when intersexuality is discovered later in a child's development (adolescence), and when and to what degree adolescents are involved in making decisions about their bodily integrity. Other methods of providing psychological support to intersex children and their parents remain unknown. Another conclusion of the research is that medical staff is not adequately educated on all aspects of treating intersex children/persons.

A handbook on the ethical and inclusive provision of health care to intersex persons has also been published, with the intention of providing additional education and information to medical staff in BiH health institutions on how to adequately treat intersex persons and provide them with inclusive health care.³⁶ The handbook can serve as an excellent model for BiH's competent authorities

35 Burić, Vanja (2020). Bodies that Transcend the Binary 2: Research on human rights of intersex children in the healthcare system of Bosnia and Herzegovina. Sarajevo: Sarajevo Open Centre, available at: <https://soc.ba/tijela-koja-nadilaze-binarnost-2-istrazivanje-o-pravima-interpolne-djece-u-zdravstvenom-sistemu-bosne-i-hercegovine/>

36 Vlahović, Erin; Randelović, Kristian et al. (2020). Between the Sexes and Reality: Handbook for Medical and Healthcare Professionals on the Treatment of Intersex Persons. Sarajevo: Sarajevo Open Centre, available at: https://soc.ba/izmedu-spolova-i-stvarnosti-prirucnik-za-medicinske-strucnjake_inje-i-zdravstvene-radnike_ce-o-postupanju-s-interpolnim-osobama/

in developing guides and guidelines for the treatment of intersex persons. One of the ideas with this handbook is to open the door to informed cooperation with leading health care facilities - clinical centres, hospitals, health centres and their experts, to share information and raise awareness about the problems of intersex persons, as well as to contribute to the revision of outdated medical classifications.

Based on the research findings, SOC created an online **campaign** to raise awareness of the problems and needs of intersex persons in the health care system³⁷, and organized a **conference** bringing together experts from the region and local medical staff of relevant clinics and institutions.³⁸

The data collected would enable advocacy for the right of parents to access transparent and available information on procedures and medical treatments when they have an intersex baby, as well as for prohibition of medically unnecessary surgical procedures and medical sex normalisation treatments in health care facilities, that are being done without intersex persons' full and informed consent.

Guidelines for Further Action

1. It is necessary to realize cooperation between civil society organisations with medical institutions and professionals, and to initiate activities on informing and raising awareness on the issues intersex persons face, along with the revision of medical classifications and abandoning obsolete and offensive terms such as *hermaphrodite* and *pseudo-hermaphrodite*;
2. SC should implement GAP activities, including clear guidelines for health professionals on the adequate treatment of transgender and intersex persons in BiH, and also the legal regulation of medical and legal proceedings in the case of intersexuality, i.e., adopt the Rule Book on Gender Reassignment in Sarajevo Canton Medical Facilities;
3. SC and all administrative-political units in BiH should make sure that health care professionals are providing gender sensitive health care services and sexual and reproductive health improvement services to intersex persons, as well as all other groups/persons;

37 For more information on the campaign, visit: <https://soc.ba/izmedu-spolova-i-stvarnosti-kampanja-podisanja-svijesti-o-interspolnim-osobama-stanjima/>

38 For more information on the conference, visit: <https://soc.ba/konferencija-o-pravima-interspolne-djece-vaznost-inkluzivne-zdravstvene-i-pravne-zastite/>

4. It is necessary to provide transparent and available information on the procedures and medical treatment in cases of birth of intersex persons, and prohibit unnecessary surgical procedures and sex normalisation medical treatments in medical facilities, without full and informed consent of the intersex person, until they are able to understand their significance and consequences, except in situations where objective circumstances require urgent medical intervention, which should be clearly defined in the procedures;
5. In order to define a clearer way of treating intersex children/persons, to define their rights, obligations and responsibilities, ministries of health should develop treatment procedures/guidelines that health workers will be obliged to follow;
6. Ministries of health should develop a training plan for health workers on the protection of intersex persons' human rights in the health care system, and conduct their training in accordance with the highest world standards in the field of trans, intersex, and gender variant persons in collaboration with non-governmental organisations dealing with these issues.
7. Clinical centres in BiH should systematically and continuously educate and sensitize medical staff involved in the medical treatment of intersex children;
8. There should be continuous inclusion of government institutions (ministries of health) and state bodies responsible for human rights protection (Ombudsman) in intersex persons' human rights, self-determination and bodily integrity protection.

VII ASYLUM

Legal Framework

The legal framework has been largely harmonized with the EU standards. Law on Asylum and Law on Aliens, adopted in 2015 and 2016 respectively, are mostly transposing provisions of the relevant EU directives. However, the provision stating SOGI 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 recognized as grounds for temporary residence in BiH nor are they recognized by law in the provisions regarding family reunification.³⁹

Social Reality

Despite the fact that regulations of many EU countries mark BiH as a safe third country of origin, **LGBTI people from BiH continue to decide to leave the country and seek protection from persecution due to their sexual orientation and gender identity in EU and North American countries.** A safe third country of origin is a legal presumption that there is a certain level of functionality of institutions, rule of law, and existence of legal mechanisms for the protection of citizens from any kind of persecution, including SOGIESC grounds.

LGBTI people from BiH decide to seek asylum due to psychological difficulties, psychological and physical violence, discrimination in employment and rejection of society they suffer because of their sexual orientation or gender identity.

In addition to the above, **in recent years BiH has been a route that people on the move from the Middle East, parts of Africa, Pakistan, Afghanistan and other countries cross on their way to EU countries. Among the mentioned migrant population, there is also a number of LGBTI people.**

So far, a certain number of LGBTI people on the move have been documented in BiH. The majority of them are in transit through BiH, and just a small number of them intend to stay. The issues they confront are related to housing, legal support and information, and stigmatisation and violence directed at them as a particularly vulnerable group by other people on the move. Precisely for these reasons, SOC was contacted by LGBTI people on the move who sought help mostly for housing, in order to avoid the arranged accommodation in camps.

³⁹ For more information on this topic, refer to the 2018 Pink Report - Chapter VII - Asylum

Documented Cases

In 2020, SOC received five inquiries of LGBTI people about asylum seeking possibilities for themselves and/or their partners in EU Member States or USA/ Canada.

SOC also recorded **one case where LGBTI people from BiH left the country and were granted asylum in the United States**. That case is related to a lesbian from BiH who left the country after being subjected to physical and psychological abuse by family members, as well as a lack of protection from competent authorities in cases of attacks on her and her property, as well as discrimination by her employer.

Year of inquiry and asylum-seeking ground	2018	2019	2020	TOTAL
Sexual orientation	6	8	3	17
Gender identity	1	0	2	3
Total number of cases	7	8	5	20

Table 7. Sarajevo Open Centre's data on seeking aid cases related to asylum requests

Failure to provide safe accommodation for LGBTI people, as extremely vulnerable individuals in this situation, as well as failing to provide clear and understandable instructions on how to initiate the administrative asylum procedure, through this case proved to be the biggest problem for all LGBTI people who want to seek asylum in BiH.

Guidelines for Further Action

1. Amend the BiH Asylum Law so as to explicitly include sex and SOGIESC as grounds for asylum seeking and possible persecution reasons;
2. Recognize in the Law on Aliens same-sex partnerships i.e., family reunification as a ground for granting temporary residence to partners of BiH citizens;
3. 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, and that their requests are processed adequately and in a timely manner;

4. Provide dignified and efficient treatment, and safe accommodation, for LGBTI asylum seekers in BiH, with special attention to the fact they belong to a highly vulnerable group prone to violence in accommodation centres.

VIII SOCIO-ECONOMIC POSITION OF LGBTI PEOPLE

Legal Framework

The BiH ADL, which provides an equal position and equal opportunity to all citizens, independent of SOGIESC, is the most important law that protects the rights of LGBTI people.⁴⁰ This law also requires all other laws and general regulations to be in accordance with the provisions of the ADL, and in the event of non-compliance, the ADL will be applied. The prohibition of discrimination applies to legal and natural persons, in the private and public sectors, and in all areas, in particular employment, education, housing, health, and social protection.

The following **five laws that regulate the field of education** at the BiH level have been adopted: the Framework Law on Preschool Care and Education, the Framework Law on Primary and Secondary Education in BiH, the Framework Law on Secondary Vocational Education and Training in BiH, the Framework Law on Higher Education in BiH and Law on the Agency for Preschool, Primary and Secondary Education. All laws at the level of Entities, cantons and Brčko District of BiH should be harmonized with the state-level framework laws in the area of education. Although the SOGIESC Anti-Discrimination Law explicitly prohibits discrimination on any of these grounds, they are generally only partially included within the scope of sex or gender, especially gender identity.⁴¹

In addition to the area of education, **the area of labour and employment is under the jurisdiction of the Entities, BD and cantons**. The exceptions are laws passed by the Parliamentary Assembly of Bosnia and Herzegovina that regulate the work of civil servants in the BiH institutions. Relevant existing laws most often regulate discrimination on the grounds of sex, providing for prohibitions of discrimination based on the sex of workers, which cannot be considered an analogous solution to discrimination on the grounds of SOGI. Although the ADL stipulates the obligation to harmonize laws at the state, entity and cantonal levels, a large number of laws still do not include SOGIESC as grounds on which discrimination is prohibited. This is particularly evident in labour legislation, where two laws (FBiH Labour Law, BD BiH Labour Law)

40 BiH Anti-Discrimination Law, Article 2, paragraph (1)

41 Detailed overview of BiH legal framework in the field of education in the context of human rights and the position of LGBTI people is available in the publication Socio-economic position of lesbian, gay, bisexual, transgender and intersex persons in Bosnia and Herzegovina, available at: <https://soc.ba/site/wp-content/uploads/2021/06/Socio-ekonomski-položaj-LGBTI-osoba-u-BiH-web.pdf>

use the inadequate term “sexual orientation” as a prohibited grounds for discrimination, while excluding gender identity. On the other hand, there is a lack of adequate regulation not only in the domain of prohibited grounds, but also of guarantees of certain rights, such as those provided only for women, including areas explicitly indicated in the Anti-Discrimination Law.⁴²

Institutional Action

The areas of education, housing, work and employment in the context of LGBTI rights are still areas that most competent institutions in BiH continue to ignore: either at the level of research and mapping needs, legal and public policy reforms, or consistent application of existing legal solutions, policies and measures. Given that the current institutional action in the field of LGBTI position and rights of has always been preceded by extensive and long-term advocacy of civil society organisations dealing with LGBTI rights, which was primarily aimed at combating violence and discrimination, and the legal vacuum or non-regulation of same-sex partnerships and legal recognition of gender identity as a burning issue for LGBTI people in BiH, it is not surprising that there is a majority lack of institutional action in these areas.

However, **initial efforts in these areas have found their place in the 2021-2023 Action Plan for the Promotion of Human Rights and Fundamental Freedoms of LGBTI people in BiH⁴³** at the state level. Whereas the Action Plan follows the structure of Recommendation CM/Rec (2010) 5 of the CoE to Member States on measures to combat discrimination on grounds of SOGI, which explicitly covers the areas of housing, labour and employment, in the version of the Action Plan still pending at the CoM BiH, there were also measures aimed at training *professionals in the areas (among others) of education, social protection, labour and employment on the rights and freedoms of LGBTI people and conducting activities in educational institutions to prevent prejudices and stereotypes towards LGBTI people*. The planned activity of determining the right to free legal aid for underprivileged LGBTI people also points to the position of LGBTI people from a socio-economic point of view, rather than just a legal-formal point of view, which is primarily the result of cooperation between government institutions, international organisations, and local civil society organisations on the drafting and shaping of this public policy document.

42 Detailed overview of BiH legal framework in the field of labour and employment in the context of human rights and the position of LGBTI people is available in the publication Socio-economic position of lesbian, gay, bisexual, transgender and intersex persons in Bosnia and Herzegovina, available at: <https://soc.ba/site/wp-content/uploads/2021/06/Socio-ekonomski-polozaj-LGBTI-osoba-u-BiH-web.pdf>

43 For more information on the institutions that led the process of drafting the Action Plan, as well as on the process itself, we recommend the chapter Good Practices - Progress in the adoption of the Action Plan for LGBTI Equality in Bosnia and Herzegovina.

The adoption of the Action Plan at the state level, as well as the “descent” to the levels of government whose mandates include housing, education, labour, and employment, is what lies ahead as a prerequisite for the implementation of these activities and measures (entity, canton). These are the areas in which the quality of life of LGBTIQ people in BiH is reflected in daily life, the degree of involvement in all flows of public life, and the ability to access the institutions and rights and freedoms currently guaranteed in BiH legal framework, which can be an optimal measure of social progress toward inclusion and acceptance of LGBTIQ people in BiH society.

Social Reality

To get a complete picture of the lives of LGBTI people in BiH and to contribute to their inclusion and acceptance, SOC conducted research on the socio-economic position of LGBTI people, for which there was previously no relevant data. The research focused on the position of LGBTI people in the education system, employment opportunities in the labour market, socio-economic background, discrimination, and other issues that impede their ability to find steady employment.

Research⁴⁴ has shown that:

- 38% of LGBTI people who outed during education noticed a change in the attitudes of their colleagues and teaching staff as a result of their outing,
- 5% of LGBTI people reported discrimination in education,
- 81% of LGBTI people feel that the teaching staff is not sufficiently sensitized,
- for 20% of the general population, it is a problem that people who are known to be LGBTI are part of the teaching staff at educational institutions,
- 16% of LGBTI people work in the “grey” market, while 56 percent have worked both legally and illegally;
- 44% of LGBTI people have been asked personal questions during job interviews,
- 17% of the general population would mind working with LGBTI people,
- 73% of the general population have never worked with LGBTI people,
- 42% of LGBTI people have not outed at work, of which 40% due to fear for their own safety,
- 52% of LGBTI people who outed at work experienced inappropriate comments from the work environment about sexual orientation and gender identity,

44 Detailed results and research analysis are presented in the publication Socio-economic position of lesbian, gay, bisexual, transgender and intersex persons in Bosnia and Herzegovina, available at: <https://soc.ba/site/wp-content/uploads/2021/06/Socio-ekonomski-polozaj-LGBTI-osoba-u-BiH-web.pdf>

- 18% of LGBTI people had difficulties when renting dwelling,
- 18% of LGBTI people were evicted from rented dwelling.⁴⁵

Guidelines for Further Action

1. Include topics dealing with gender equality, with a special section on SOGIESC in the curricula of relevant subjects starting from primary education.
2. Discuss sex, gender and sexuality issues in the homeroom classes.
3. Develop guidelines/manual for teaching staff to prevent homophobia/transphobia and provide adequate support for LGBTI students.
4. Provide sensitized psychologists and counsellors to provide psychological assistance to LGBTI students in primary and secondary schools.
5. Expand the articles of FBiH, RS, and BDBiH Labour Laws that, in addition to prohibiting asking questions about pregnancy during employment process, also prohibit asking questions about sexual orientation, sex markers, and gender identity.
6. Provide legal assistance to LGBTI people who experience labour rights violations or discrimination at work or during employment process.
7. Work on the improvement of judicial, administrative and inspection procedures in cases of protection or exercise of the rights of LGBTI people in the field of labour, through continuous cooperation and education.
8. Improve the safety of LGBTI people in the workplace, by introducing zero tolerance for violence through internal policies and sanctions.
9. Establish programs to improve family relationships and reduce LGBTI youth homelessness, as well as programs to protect against domestic violence, and establish safe houses for LGBTI victims of violence.⁴⁶

⁴⁵ Lejla Gačanica, Socio-economic position of lesbian, gay, bisexual, transgender and intersex persons in Bosnia and Herzegovina; Sarajevo Open Centre, Sarajevo, 2021.

⁴⁶ Ibid.

IX ACTIVITIES IN LOCAL COMMUNITIES FOR THE PROMOTION OF LGBTI RIGHTS

Activities of Organisations Advocating for LGBTI Rights in the Republika Srpska

LGBTI people typically exercise their rights, as well as certain other needs, through organisations in their local communities or established support networks that are recognized as a safe environment with resources and capacities to respond to the LGBTI community's needs.

Centre for Youth KVART is an activist and grassroots organisation whose work and activities are based on uncompromising respect for universal human values such as peace, non-violence, democracy, freedom, equality, respect for human rights, anti-fascism, and justice. The activities of the Centre for Youth "KVART" are focused at young people as the most important component of society and the most capable of achieving positive social change, with the vision of a free and equal society and the mission of combating all forms of social injustice and inequality. During the work and activities of organisations in various strategic fields (dealing with the past, social justice and human rights of LGBTI people), activists are often exposed to discrimination, hate crime, and hate speech, which encourages them to deal more systematically and adequately with problems and struggle for Bibi LGBTI rights, but also to nurture a feminist ethic of caring and responsibility.

By the time this report was published, the **RS Centre for Youth KVART was the only registered organisation** that addressed LGBTI rights issues strategically and programmatically through its statutory goals, with the support and cooperation of SOC and the Tuzla Open Centre (TOC), as well as other organisations and activist collectives in BiH and the region. Activists from the organisation actively participated in the formation and growth of the LGBTI movement in BiH from the very beginning (Association Q, Šarena Mreža, Association Okvir, BUKA, Šareno Kino, Queer Luka, Equilibrium) and followed the evolution of the fight for LGBTI rights in BiH. They took part in the pioneering activities of the Association Q and the formation of the Association Šarena Mreža in Sarajevo, as well as the empowerment and organisation of the LGBTI movement in Sarajevo and Banja Luka through the Association Okvir and SOC, Equilibrium and Banja Luka Association of Queer Activists (BUKA), and in independent activities, work and organisation of activities and community projects in north-western Bosnia and Herzegovina (Prijeđor, Banja Luka, Bihać and other smaller towns around these cities). In addition, by nurturing an activist approach in the fight for LGBTI rights,

the organisation has carried out a number of non-project activities that have significantly increased the visibility of LGBTI people in both the local community and BiH society (street actions, creating and running a virtual cinema for screening LGBTI movies, organising various social activities for members of the LGBTI community, etc.). It is worth noting that the organisation's activists actively participate in the organisation of the Sarajevo Pride March.

One of the Centre for Youth KVART's main goals is to strengthen the LGBTI community. Through these programs, LGBTI people participate in educational, creative, psychological and other empowerment workshops that aim to build the personal capacity of LGBTI people while also providing help in cases of violence or discrimination.

During the previous years of work and operation, **a "gaym room" has been equipped** to serve as a safe living space for LGBTI people in Prijedor, with LGBTI books and videos available to users on a daily basis.

At the end of the year, **support groups began operating in Banja Luka and Prijedor** as a place to exchange experiences, feelings, and thoughts. The purpose of these support groups is to develop the capacity for positive self-acceptance, self-confidence, and a positive self-image through fostering confidentiality, acceptance, and understanding, and group members help each other through conversation in a safe environment and friendly atmosphere. The group is led by Irena Đumić Jurić-Marjanović, an LGBTI friendly psychotherapist from Banja Luka who applies an affirmative approach to working with LGBTI people.

Because during the pandemic it was recommended to follow all epidemiological measures to combat the pandemic, some of the activities that Kvart has been conducting on a regular basis for years had to be postponed. One of these activities was **the celebration of May 17, the International Day Against Homophobia and Transphobia (IDAHOT) in Banja Luka, which took place in August**, and included a workshop for the LGBTI community, an exhibition of photos from the first BiH Pride March, and a discussion with activists about the importance of organising a pride march in Sarajevo. In the evening, there was a screening of the film "We Walk for Love, Baby" about the organisation of Sarajevo's first Pride March, followed by a late-night party.⁴⁷

Another activity was the **Q sport camp** organized in Sutjeska at the end of September, where 22 LGBTI people had the opportunity to spend some time with other LGBTI people in a safe environment, go on day trips to Perućica and lakes within the Sutjeska National Park, participate in sports activities and other

⁴⁷ <https://6yka.com/novosti/zasto-je-povorka-ponosa-vazna-kao-javni-dogadaj-u-bih>

educational content. This activity sought to connect LGBTI people and provide a safe space for them to share their thoughts, emotions and experiences.

In the coming period, Kwart will continue to make special efforts to build the personal capacities of LGBTI people and increase their social inclusion in all spheres of work and activity.

Legal Framework and Institutional Action

Although the ADL has been in effect since 2009, there are certain practices in the RS that directly discriminate against LGBTI people.

One example is the practice of the RS Institute for Transfusion Medicine, which continues to use **a discriminatory questionnaire that restricts blood donation to anyone who has “occasional or constant contact with homosexuals”**. Although representatives of the Centre for Youth Kwart have repeatedly entered into negotiations to alter the questionnaire and suggested to put risky sexual conduct instead of sexual orientation as a criterion for rejecting potential donors, unfortunately this has not yet happened.

Although criminal and misdemeanour regulations in the RS have established a normative framework for incriminating and sanctioning behaviours that have the characteristics of criminal or misdemeanour offenses with a specific motive for the manifestation of these illegal and violent behaviours where the perpetrator is motivated by prejudice or hatred towards a particular social group, **in the RS practice there has been no verdict for hate crime for years**, and the problem lies in the inadequate qualification of hate crime by prosecutors, and mostly those who commit these crimes are fined for violating the Law on Public Peace and Order.

In addition to working with the LGBTI community, Kwart has made a significant contribution to **the development of an institutional support network to protect the rights of LGBTI people** by building the capacity of institutional representatives to take a proactive role in improving the lives of LGBTI people in the RS.

Recognising the issue of mental health professionals' lack of knowledge and experience in responding to the needs of the LGBTI community, Kwart **conducted trainings for professionals in helping professions with the goal of strengthening the capacity of representatives of institutions and the civil sector for future work with LGBTI people and creating a stronger**

institutional and social support network for LGBTI people. The goal of the training was to learn about the affirmative approach in counselling and psychotherapy work with LGBTI people, and the participants were professionals in helping professions from Prijedor and Banja Luka, from various institutions such as the **Mental Health Centre, Centre for Occupational Medicine and Sports, Social Work Centre, secondary school psychologists, and civil sector representatives.** The lecturer was Iva Žegura, a clinical psychologist and gestalt therapist from Zagreb, with over 20 years of work experience with the LGBTI community and numerous trainings aimed at educating and sensitising professionals in working with LGBTI people.

In 2020, **Kvart participated in the development of the Action Plan for the Equality of LGBTI people in Bosnia and Herzegovina**, which is being implemented with the support of the CoE. They had the opportunity to propose guidelines for improving the work of institutions and create strategic goals for improving the quality of life of LGBTI people in BiH.

Social Reality in the Local Community

Living in a homophobic, biphobic, and transphobic environment, constantly experiencing discrimination and oppression, as well as being subjected to various forms of violence, all have severe consequences for members of the LGBTI community. Furthermore, the ongoing “pressure” is the constant need for outing (and constantly deciding whether to hide or reveal their lives), which occurs every time they meet a new person, in a private or business context, or in other social encounters. That is why it is important to provide LGBTI people with proper support that will empower them and assist them in resolving their specific problems.

The previous year imposed a number of challenges for LGBTI people, and the pandemic conditions induced by the COVID-19 virus resulted in an increase in the number of cases of domestic violence. Many LGBTI people who had been living alone were compelled to return home to their parents owing to changes in living conditions (loss of jobs, reduced duties at universities, etc.). Being locked up in a home with parents who did not support them or were aggressive towards them, caused many problems. Many LGBTI people sought psychological support because this situation affected their mental health. **Since April, Kvart has been continuously providing psychological counselling services to LGBTI people, and a total of 32 people from Bosnia and Herzegovina used these services last year.**

The most common problems that people experienced were behavioural disorders due to changing life circumstances, depressive states, counselling in cases of domestic violence, support for trans persons who were unable to obtain hormone therapy during a pandemic period, which complicated the transition process even further.

Kvart has assisted in moving people from camps to a safe place at another location on various occasions over the last year. It should be noted that there are no safe houses for LGBTI people in Bosnia and Herzegovina, therefore they face discrimination and violence on a regular basis.

Guidelines for Further Action

1. Establishing safe houses and providing LGBTI people with support for adequate integration, with a focus on LGBTI people on the move who need to be relocated to a safe place;
2. Adequate prosecution of hate crime and hate speech against LGBTI people, as well as sanctioning of hate speech on the Internet, in order to strengthen LGBTI people's trust in local institutions (police/judiciary), and to build local social cohesion and acceptance of LGBTI people;
3. To regulate a number of socio-economic rights of LGBTI people throughout BiH, it is necessary to enable and regulate the issue of same-sex partnerships in BiH.

Activities of Organisations Advocating for LGBTI Rights in Tuzla Canton

Through its work, the **Tuzla Open Centre** seeks to build a bridge of trust between the LGBTI community and the institutions of Tuzla Canton (TC). The organisation promotes the human rights of LGBTI people and gender equality in public life and space through continuous activist activities based on feminist principles, and works through strengthening the LGBTI+ community, proposing and advocating inclusive policies and legislation, creating institutional support infrastructure, sensitising the public and conquering public space, promoting capacity and producing knowledge, and participates in building and strengthening the local civil society network.

TOC actively participates in the work of the International Lesbian and Gay Association ILGA World/Europe, LGBTI network of organisations for the Western Balkans and Turkey - ERA, Coalition for the Fight Against Hate Speech and Hate crime in BiH, Coalition for the Fight Against Hate Speech in Tuzla and Tuzla Youth Council.

The COVID-19 pandemic particularly emphasized the need of LGBTI organisations in local communities to survive and operate in order to provide adequate support and services to LGBTI people whose vulnerability is heightened in a situation of crisis. Following the declaration of state of disaster, TOC adapted its activities to the orders and measures of the crisis staffs. A short questionnaire was carried out with LGBTI+ persons from Tuzla to determine the needs and challenges of the LGBTI+ community at the time.

In order to give adequate support, ten trainings and gatherings for the LGBTI community were arranged in accordance with epidemiological measures. The emphasis was on online communication and work, and instruments for work and activities were adapted to the online format to meet the desired results as much as possible. Social networks have evolved into an inclusive and free arena for LGBTI+ persons to tell their stories and/or share creative content that has helped them cope with the current situation. These contents are included in the published publication *"Queer Art in Self-Isolation"*⁴⁸, and at the end of 2020 began the work on the book *"I Tell You Tales in Rainbow Colours: Queer Lifestories"*, which collects lifestories of queer persons from all over BiH with the goal of sensitising the general public to the lifestories of LGBTI people.

⁴⁸ Publication *"Queer Art in Self-Isolation"* (Tuzla Open Centre, 2020). Available at: <http://toc.ba/blog/2020/05/17/queer-umjetnost-u-samoizolaciji-2/>

The visibility of LGBTI topics in public space has been increased by marking important dates through social media campaigns, the introduction of the *Tuzla Open Program*⁴⁹ on PE “RTV7” Tuzla, the publication of articles on social networks, and a continuous advertising campaign on LED displays in the centre of Tuzla.

Legal Framework and Institutional Action

Although the legal framework protecting the LGBTI human rights in BiH has been improved with amendments to the ADL, entity and Brčko District criminal codes, laws and action plans for gender equality in BiH, their slow or non-existent implementation continues to cause widespread discrimination, hate speech and hate crime. The decentralized political system, particularly in FBiH, contributes significantly to this, as basic life issues have been lowered to the level of decision-making and organisation within cantons and local self-government units.

Article 7 of the Constitution of Tuzla Canton⁵⁰ stipulates that “in implementing its jurisdiction, the Canton ensures and undertakes all necessary measures for protecting human rights and freedoms set forth in the Constitution of Bosnia and Herzegovina and its annexes, Constitution of the Federation of Bosnia and Herzegovina and its annexes, and this Constitution, paying special attention to ensuring equality of all peoples and citizens in the Canton, municipalities and cities”.

Ensuring and protecting human rights and fundamental freedoms is also the responsibility of local communities in FBiH. Article 8 of the Law on Principles of Local Self-Government of FBiH⁵¹ stipulates that “the competences of a local unit of self-government shall include specifically: ensuring and protecting human rights and basic freedoms in accordance with the Constitution”, which is also visible in Chapter II - Realisation and Protection of Human Rights and Freedoms and Cooperation with the Ombudsmen of the Statute of the Municipality of Tuzla⁵² (the Statute of the City of Tuzla after the adoption of the Law on the City of Tuzla⁵³ in 2014 has not yet been adopted due to lack of political agreement).

49 Tuzla Open Program (YouTube channel of Tuzla Open Centre). Available at: https://youtube.com/playlist?list=PLLI4xwRfEn6bgAl6HnWnjzmjcdhAqfV_

50 Constitution of Tuzla Canton (“Official Gazette of Tuzla Canton”, 7/97, 3/99 and “Official Gazette of Tuzla Canton”, 13/99, 10/00, 14/02, 6/04, 10/04): Available at: <http://www.vladatk.kim.ba/ustav-tk>

51 Law on Principles of Local Self-Government of FBiH (“Official Gazette of FBiH”, 49/06). Available at: <http://www.fbihvlada.gov.ba/bosanski/zakoni/>

52 Statute of the Municipality of Tuzla (“Official Gazette of the Municipality of Tuzla”, 2/99, 9/00, 2/08, 12/09). Available at: <http://grad.tuzla.ba/wp-content/uploads/2014/11/statut-pre%C4%8Di%C5%A1%C4%87eni-tekst-2011-1.pdf>

53 Law on the City of Tuzla (“Official Gazette of FBiH”, 80/14). Available at: <http://www.fbihvlada.gov.ba/bosanski/zakoni/>

The obligation of services and institutions to ensure the protection of human rights and freedoms in their work with citizens and to act without discrimination, is especially emphasized.

Despite the fact that multiple international regulations, constitutions, and laws require equal treatment, Tuzla Canton institutions still do not provide an effective system of support for their LGBTI citizens.

Analyses of Tuzla Canton public institutions' policies conducted by TOC in 2019 and published in the publication *Guidelines for Public Institutions of Tuzla Canton on How to Work with LGBTI people*⁵⁴, show that public institutions lack adequate LGBTI policies and regular training for staff, resulting in unequal treatment in providing services to LGBTI citizens.

In 2019, **TOC developed an informal Local Institutional Support Network for LGBTI people in Tuzla Canton, with 14 institutions and civil society organisations engaging in the network's operations.** In 2020, effort was done on the sustainability of the network through regular communication and meetings with members whenever possible due to the COVID-19 pandemic. The focus was on bilateral collaboration with network members and specific services provided to LGBTI people. Thus, through this cooperation, **TOC signed cooperation agreements with the Association "Amica Educa" Tuzla, Tuzla Youth Movement Revolt, Tuzla Human Rights Office, and PI "Cultural Centre" Tuzla in 2019, with PHI "University Clinical Centre Tuzla" and PE "RTV7" Tuzla in 2020, and with the City of Tuzla in 2021**⁵⁵, which further confirms TOC's cooperation with the City of Tuzla as the only local self-government unit in BiH that takes major efforts to improve the quality of life of its citizens.

In 2020, TOC continued this cooperation through work in **the Coordination Group for the Youth Strategy of the City of Tuzla and the Partnership Group for Social Development of the City of Tuzla**, which monitors the implementation of the Strategy for the Development of the City of Tuzla until 2026. Additionally, financial support was provided from the 2020 Budget of the City of Tuzla for the Festival "Merlinka in Tuzla" and the project "Primary School of LGBTI Rights".

54 Guidelines for Public Institutions of Tuzla Canton on How to Work with LGBTI people (Tuzla Open Centre, 2019). Available at: <http://toc.ba/wp-content/uploads/2019/12/7.2.-Smjernice-javnim-institucijama-Tuzlanskog-kantona-za-rad-sa-LGBTI-osobama.pdf>

55 Tuzla Open Centre and the City of Tuzla signed a Cooperation Agreement. Available at: <http://toc.ba/blog/2021/02/02/tuzlanski-otvoreni-centar-i-grad-tuzla-potpisali-sporazum-o-saradnji/>

In 2020, **members of the Youth Council of the City of Tuzla (14 youth organisations)** through the work of TOC were informed and sensitized about the needs and problems of LGBTI people in Tuzla through 2 activities attended by 30 people.

Social Reality in Local Community

The majority of responses from a short questionnaire conducted with LGBTI+ persons from Tuzla during the pandemic indicated that social isolation and inability to participate in activities were the biggest issues for them, that mental health was impaired, and that there were threats of domestic psychological and physical violence.

According to the aforementioned analysis of the policies of public institutions in Tuzla Canton, discrimination and homophobia are particularly present in schools, and educational institutions are not safe environments for LGBTI students and teaching staff.

In the same research, interviews with LGBTI people revealed a lack of trust in institutions due to fear of being outed and/or misconduct while using the service. This was confirmed by *TOC's 2019 Research on the Problems and Needs of the LGBTIQ Community in Tuzla Canton*⁵⁶, in which no one from the LGBTIQ community who took part in the research said they trusted BiH institutions. 31.4% of people partially trust, while 68.6% of respondents do not trust our public institutions. Exactly because trust is inconsistent, data show that 95.7% of respondents who experienced some form of discrimination and/or violence did not report it.

The COVID-19 pandemic caused particular challenges in working with the LGBTI+ community in Tuzla Canton. The last public activity that was realized before the declaration of state of disaster in Tuzla Canton⁵⁷ and Tuzla⁵⁸ was the Sixth International Queer Art and Film Festival "Merlinka in Tuzla". The festival gathered the largest number of visitors to that day and confirmed the need to create an inclusive and solidary space.

56 Research on the Problems and Needs of the LGBTIQ Community in Tuzla Canton (Tuzla Open Centre, 2019). Available at: [Ispitivanje-potreba-LGBTI-zajednice-u-TK.pdf](http://ispitivanje-potreba-lgbti-zajednice-u-tk.pdf) (toc.ba)

57 Declaration of state of disaster in Tuzla Canton (Government of Tuzla Canton, March 17, 2020). Available at: <http://vladatk.kim.ba/vlada-tk/rad-vlade/aktivnosti-vlade/7356-odrzana-19-vanredna-sjednica-vlade-tk>

58 Declaration of state of disaster caused by the COVID-19 outbreak in the City of Tuzla (City of Tuzla, March 19, 2020). Available at: <http://grad.tuzla.ba/vijesti/proglaseno-stanje-nesrece-uzrokovane-pojavom-koronavirusa-covid-19-na-podrucju-grada-tuzle/>

Although the festival was carried out without security threats, the need to amend the Law on Public Assembly of Tuzla Canton and police practices in respect to adequate insurance of high-risk events was once again confirmed. Freedom of assembly and treatment of justice institutions in relation to organisations dealing with LGBTI issues and the promotion of human rights should be prioritized.

Guidelines for Further Action:

1. Amend the Law on Public Assembly of Tuzla Canton and police practices in respect to adequate insurance of high-risk events and in accordance with international legal standards in this area;
2. Strengthen the capacity of organisations that provide psychosocial and legal support, but also for the work with institutions to develop positive public policies and internal practices, as well as staff education and sensitisation in working with LGBTI people;
3. Decentralisation of activist efforts and donor policies;
4. Implementation of existing legal regulations and policies at the cantonal and local levels, as well as the establishment and sustainability of local support networks for LGBTI people.

GLOSSARY OF LGBTI TERMS⁵⁹

BISEXUAL PERSON

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

COMING OUT

Concept derived from the English phrase coming out of the closet, routinely used to describe public or open declarations and affirmations of one's sexual orientation (for lesbians, gay men and bisexuals), gender identity (for trans persons) and sex characteristics (for intersex persons). It occurs on two levels: as a self-discovery and as a (more or less) public notification to others. Coming out is of great importance to LGBTI people, 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 any form of putting a person or a group of persons at disadvantage. There are various grounds and characteristics by which a person or a group of persons is led to a disadvantaged position. Lesbians, gay men and bisexual persons can be discriminated against on the grounds of *sexual orientation*, trans* individuals (including transgender and transexual 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 groups, regardless of their specific characteristics; used to assess the apparently neutral criteria and practices which can cause effects that systematically put the persons with these characteristics in an unfavourable position.

HOMOPHOBIA

Irrational fear, intolerance and prejudice against gay men and lesbians. It manifests as a conviction in heterosexual superiority. Such conviction incites violence against persons 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.

⁵⁹ 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 can also be used as an adjective (e.g., gay person), and as such can include both men and women of same-sex orientation.

Homosexual

An outdated clinical term for persons whose sexual orientation is towards persons of the same sex, i.e., persons that are sexually and/or emotionally attracted to persons of the same sex. This term is inappropriate and many gays and lesbians find it offensive. More correct terms are gay (men)/gays and lesbians.

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. Bearing in mind that the World Health Organisation (WHO) confirmed in 1990 that homosexuality is like heterosexuality, a natural variation of human sexuality, this term is no longer in use.

INTERSEX PERSONS

Persons whose *sex characteristics*, including chromosomes, gonads and genitalia, do not match the typical, binary categories of male and female bodies. There are different forms of intersexuality. Persons can be male, female and intersex. *Intersex persons*, like male and female persons, have their own 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 discrimination.

LGBTI

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

LGBTTIQ

An abbreviation for lesbians, gay men, bisexual, transgender, transexual, intersex and queer persons.

QUEER

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

GENDER IDENTITY

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

Gender expression

Visual and external presentation of each person, including personality features, appearance and behaviours that are considered as masculine or feminine in a certain culture or time period (hence, typical for male or female social role).

SEXUAL ORIENTATION

Emotional and/or sexual attraction or affection towards persons of the same and/or opposite sex/gender. Classification into *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) is usually being used. In legal texts in Bosnia and Herzegovina, the terms sex orientation, sexual decision, sexual preference, sex preference and sexual

choice are often used, but the use of term sexual orientation is recommended.

SEX CHARACTERISTICS

Person's sex characteristics, like the chromosomes, gonads and genitalia, can be different than the typical, binary division on male and female bodies. Persons can therefore be divided to male, female and intersex. Intersex persons can be discriminated against, or be targets of hate crime and prejudices because of their sex characteristics.

TRANSGENDER PERSON

A term used for persons whose gender identity is not in accordance with the sex they were assigned at birth. Transgender persons feel, prefer or choose to present themselves differently from traditionally prescribed gender roles assigned to them at birth. This can be expressed through clothing, way of speaking, manners, makeup or body modifications. Among others things, the term transgender refers to persons who do not identify themselves as either male or female, transexual, transvestites, cross dressers, a-gender, non-binary, gender fluid and other gender variant persons. A *transgender man* is a person who was assigned the female sex at birth, but whose 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 whose gender identity is feminine, or in the spectrum of feminine gender identities.

Transexual person

A 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 transgender persons.

HATE CRIME (criminal offences perpetrated out of hatred)

Refers to criminal offences motivated by prejudices against a particular person or group of persons. Hate crime 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 sex characteristics, or the victim is connected, supports, belongs to or is a member of an LGBTI group.

ADDENDUM

The Political System of Bosnia and Herzegovina

The political system of Bosnia and Herzegovina is highly complex and asymmetric. Bosnia and Herzegovina consists of 13 federal units. Bosnia and Herzegovina is administratively divided into two Entities (the Federation of BiH and the Republika Srpska) and Brčko District. The 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 three municipalities/towns. The responsibilities and interrelationships between the state, Entities and Brčko District are regulated in the BiH Constitution, 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 the same as the Entities. Laws and other public policies of importance for the improvement of LGBTI people' equality are under the jurisdiction of the state, Entities, cantons and Brčko District. This complexity points at the need for a coordinated approach, developing capacities and raising awareness on the needs of LGBTI people at all levels of government. The work on improvement of LGBTI people' equality 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 people, and work on improving the equality of LGBTI people.

At the **state level**, there is a three-member Presidency whose members, one Bosniak, one Croat and one Serb, rotate every eight months in presiding over the 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 asylum regulation. One of the ministries within the BiH Council of Ministers is the Ministry for Human Rights and Refugees, within which the BiH Gender Equality Agency operates. This Ministry and the Agency itself are of great importance for the improvement of human rights of LGBTI people. The Institution of Human Rights Ombudsman of Bosnia and Herzegovina operates at the level of

BiH - and its three Ombudspersons are responsible for the entire Bosnia and Herzegovina and all government levels. According to the Anti-Discrimination Law, the Institution of Ombudsman 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 Commission operates within the House of Representatives, while the Constitutional-Legal Commission is the specialized gender-equality body in the House of Peoples. Some of the key laws for LGBTI people, such as anti-discrimination laws, laws on gender equality, on aliens and asylum, are under the state jurisdiction.

Both Entities have one 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 the 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 entity parliaments have parliamentary working bodies for human rights and gender equality/equality of opportunity. Gender centres operate within the executive branch, as government institutions for the improvement of gender equality, which also play a key role in coordination of entity institutions related to human rights of LGBTI people, as there are no entity institutions specialized in human and/or minority rights. For example, labour legislation, criminal legislation related to hate crime 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 their unicameral 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 the scope of their own jurisdiction (like education at all levels, 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 that is contradictory to the Federation of BiH regulations and laws, or they fail to implement the existing regulations of Federation of BiH. 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 consisting of representatives of different ministries). Almost none of the cantons is individually undertaking any coordinated measures for improving human rights of LGBTI people.

Brčko District is practically equal to the Entities in terms of jurisdiction, despite the fact it is also a form of a local unit. The District is governed by a Mayor, who presides over the Government consisted of 10 departments. Laws and other

legislation are passed by the Assembly of Brčko District. Brčko District does not have an office/institution for gender equality and/or human rights within its government, but there is a Gender Equality Commission operating in the Assembly. The institutions of the District have not undertaken any measures for the improvement of human rights of LGBTI people so far.

The highest judicial instances are the three constitutional courts, one for each entity and one at the state level. Due to the nature of the political system, Bosnia and Herzegovina 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 Brčko District, and there are ten cantonal police authorities in the Federation of BiH, which share their jurisdiction with the entity police.

About Sarajevo Open Centre

Sarajevo Open Centre (SOC) works on promoting human rights, particularly the position and human rights of LGBTI people and women in Bosnia and Herzegovina, by interpreting, presenting and representing the authentic experiences of persons suffering from human rights violations and inequalities, and by advocating for legal, political, economic, social and cultural changes in all areas of life.

We will mention only some of the achievements related to the equality of LGBTI people and women. Apart from psychosocial and legal counselling, we continued running the only LGBTI medium in the country – www.lgbti.ba portal. We organized trainings for the police, prosecutor's offices and courts, with a focus on hate crime, hate speech and the application of anti-discrimination law; for medical professionals and health workers, with a focus on trans-specific and trans-inclusive gender reassignment; for the LGBTIQ community. We have worked intensively on creating a local institutional support network for LGBTI people in Sarajevo Canton, improving the regulation of biomedically assisted fertilisation in the Federation of BiH, rights of female workers related to discrimination based on sex and maternity leave, introducing gender sensitive language in parliaments and universities, adopting and implementing cantonal gender action plans, but also raising awareness about gender-based violence in BiH.

Over the past years, several of our legislative and policy initiatives have entered government or parliamentary procedure. We focused our advocacy activities on policies for equality of women and LGBTI people in BiH, reproductive rights of women and men, parenting in the context of reconciling private and business life, freedom of assembly of LGBTI people, improvement of the institutional framework for the protection from violence and discrimination, and we intend to continue working on issues concerning transgender persons, intersex persons, same-sex partnerships, their social inclusion, but also the position of LGBTI people in education, health, work and employment.

Over the past years, we have carried out media campaigns that have reached over one million citizens of BiH, and we also organized the LGBTI film festival Merlinka, which, in cooperation with Tuzla Open Centre, became the local festival Kvirhana in 2021.

For more information about our work, see: www.soc.ba.

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