

**PINK REPORT.
ANNUAL REPORT ON
THE HUMAN RIGHTS SITUATION
OF LGBT PERSONS
IN BiH IN 2012**

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Authors: Marinha Barreiro, Vladana Vasić, Saša Gavrić
Proofreading: Allison Olender
Layout & design: Dina Vilić
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For the publisher: Saša Gavrić



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EXECUTIVE SUMMARY

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Authorities in BiH are not really aware that LGBT persons are a part of society and consider their rights inferior to the rights of other groups. This kind of attitude is mostly explained by the low number of visible LGBT persons, and the common consideration that *this* (meaning homosexuality) or *them* (meaning LGBT persons) do not exist in BiH. When discussing LGBT rights, most institutions in BiH assume that the prohibition of discrimination regulated by the Anti-discrimination Law in BiH is enough to enable the protection and equality of LGBT persons with other citizens of BiH, and are not sensible enough to notice or deal with other issues that LGBT persons face daily in BiH.

Throughout 2012, as LGBT topics have become more visible in BiH through the media coverage, which is still mostly sensational and shocking in order to attract the viewers, and through the work of organisations working on LGBT human rights and activists, hate speech and hate crimes aimed at LGBT people have become more evident as well. The increased visibility of LGBT activism in 2012 was followed by hate speech on web portals, which became even more severe and threatening. In all the cases presented in this report, the response of the authorities was either non-existent or insufficient, and in some of the cases the perpetrators of the incidents were officials. Authorities consistently fail or refuse to condemn the hate speech and intolerance aimed at LGBT persons or to sanction the perpetrators, which leads to the lack of trust of LGBT persons have in governmental institutions. This lack of trust results in LGBT persons not reporting more serious incidents and cases such as discrimination and hate crimes.

The first step to better recognition and protection of the rights of LGBT persons is the harmonisation of existing legislation with the Anti-discrimination law of BiH. This was supposed to be done by 2010, but has not yet been completed. Other changes to legislation, such as the introduction of hate crimes and proper prohibition of hate speech, should be included in the Criminal Code of the Federation of BiH, in order to promote and enhance the protection of the rights of LGBT persons, as well as all individuals and minority groups in BiH. Authorities should also be aware that legislation itself is not enough to prevent the violation of human rights of LGBT persons and that they must enforce these laws and regulations. The authorities should also organise mandatory trainings and education for all public officials and personnel, such as police officers and public administration employees.

PRIORITY MEASURES

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1. Introduction of adequate hate crime regulation in criminal law of Federation of BiH

In December of 2012, newspapers and portals broadcasted that a young man was severely beaten by two other men, because of his sexual orientation. Witnesses who were present at the time of the incident claimed that the two men attacked the third because he was homosexual. The victim was taken to the hospital and police started investigating the case. However, no information about the course and outcome of the investigation has been released to the public. The attack occurred in Mostar, Hercegovačko-neretvanski Canton of Federation of BiH¹.

This inactivity and passivity of the officials can be attributed to the fact that the Federation of BiH is the only remaining federal unit of BiH that has not yet regulated hate crimes. The criminal codes of Republic of Srpska and Brčko District already define hate as a motive for committing a criminal act, predicted by this Law as completely or partially based on the grounds of actual or assumed ethnicity, nationality, language or writing, religious beliefs, race, skin colour, sex/gender, sexual orientation, political or other persuasion, social background, age, health condition or other characteristics or because of the association with individuals who poses some of these characteristics. These criminal codes also explicitly state that the court is obligated to take biased motivation into account as an aggravating circumstance of a criminal act.

Unfortunately, even though amendments to the criminal law were proposed, no similar regulation exists in Federation of BiH which diminishes the impact and the gravity of these acts, causing the inactivity of the institutions in charge which treat bias motivated criminal acts as any other violence and miss out on the opportunity to adequately condemn and sanction these cases thus sending a message of intolerance towards separating and targeting one group of the society.

Sarajevo Open Centre reacted immediately in December after hearing about this case, and appealed to the Ministry of Internal Affairs and the Prosecutors Office of Hercegovačko-neretvanski Canton to process the case and apprehend the perpetrators as soon as possible, emphasising the gravity of this case and the consequences it might have on the victim, as well as the rest of the community². Following this action of SOC, a Coalition for

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1 <http://www.radiosarajevo.ba/novost/98076/mladic-brutalno-pretucen-zbog-seksualne-orientacije>

2 <http://www.soc.ba/index.php/en/news/205-press-release-on-hate-crime-that-happened-in-mostar>

combating hate speech and hate crime was formed in January of 2013 by the Association for Democratic Initiatives (ADI), Mediacentar BiH, Sarajevo Open Centre (SOC) and Youth Initiative for Human Rights (YIHR) with the support of the Swedish human rights organisation Civil Rights Defenders and OSCE. This Coalition already lobbied for the amendment of the draft of the Law on amendments to the Criminal law of Republic of Srpska regarding the definition of hate crime which is being explicitly introduced into Criminal law of RS, and is currently continuing its advocacy work in Federation of BiH.

In Federation of BiH, in order to adequately regulate bias motivated crimes, the Criminal law should be amended in two possible ways:

- The definition of hate should be introduced into the Criminal law of FBiH in the same way it is in the criminal law of Republic of Srpska and Brčko District as a *motive for committing a criminal act, predicted by this Law which is completely or partially based on the grounds of actual or assumed ethnicity, nationality, language or writing, religious beliefs, race, skin colour, sex/gender, sexual orientation, political or other persuasion, social background, age, health condition or other characteristics or because of the association with individuals who poses some of these characteristics.* The law should also regulate the obligation of the court to take hate and biased motivation as an aggravating circumstance of a criminal act in every bias motivated criminal case.
- To go one step further and introduce the explicit definition of a hate crime, the way it will be adopted in the Criminal law of Republic of Srpska with the recent amendments, and define it as *any criminal act committed because of the actual or assumed race, nationality, ethnicity, religion, skin colour, sex/gender, sexual orientation, health condition, gender identity or some other characteristics of the victim, or because of the victims association with individuals who have some of these characteristics.*

FBiH should also educate the institutions in charge of the implementation of the new amendments to the Criminal Code by *conducting trainings for police officers, prosecutors and judges on how to process hate crime cases.*

2. To establish adequate procedures of document replacement and identity number change for transexual persons who have undergone sex reassignment which will be the same on all country levels³

The procedure for change of identity number and sex marker in the documents for a transexual person, who has undergone sex reassignment in BiH, depends on the entity and district laws and institutions.

In Brčko District the current Law on registry books does not predict sex change as one of the circumstances that has to be additionally written in the registry books though sex marker change is usually allowed as the correction of a mistake made when the person in question was registered at birth, a procedure which is regulated by the Law.

In the laws on registry books of Republic of Srpska and Federation of BiH sex change is identified as one the reasons of additional registry in the registry books thus making it easier for other documents to be changed accordingly. However these procedures are different in both entities, and in FBiH they are different in all 10 cantons. Additional difficulties arise when a person in one of the administrative units attempts to change the sex marker and documents in the other one.

This kind of practice creates serious instability and insecurity in the social and legal status of transexual persons living in BiH, because the accordance of their physical appearance and sexual markers in their documents depends on the willingness and knowledge of the organs in charge of identity numbers and registry books, and due to their lack of knowledge and sensibility can lead to inability to live as a person of both desired and biological sex. Transexual persons in transition face marginalisation and social exclusion and invisibility; they are legally recognised as members of one sex while their physical appearance resembles the legally opposite sex which makes them more exposed to discrimination and violence than the rest of the LGBT community and general population.

A transgender individual from BiH has been repeatedly sent from one institution to another (one in the birth place and the other in the place of domicile) in two different cantons in Federation of BiH, even though he provided them with all the necessary information. Both institutions claimed the other was in charge, even though the Law on registry books of Federation of BiH strictly regulates that the institutions in charge are the Ministries of Internal Affairs of the cantons where the person requesting the change of sex markers

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3 Vasić, Vladana. Izvještaj o pravnom položaju transrodnih osoba U BiH. Sarajevo: Sarajevo Open Centre, 2013. (<http://www.soc.ba/templates/lightbreeze-red/media/Izvjestaj%20o%20transrodnosti%20web.pdf>)

in its documents has their domicile. During and following the transition, this individual always encountered inconveniences when presenting their documents, such as taunting, insults and disbelief that these documents are valid.

In order to prevent this period of legal inexistence of transexual persons and make the sex marker change more effective and faster, BiH should:

- introduce and regulate sex change in Brčko District;
- make laws or policies regulating procedures for the change of sex markers in the documents of transexual persons in both entities and the District thus making them harmonised in entire state;
- develop and implement strategies for combating discrimination and exclusion of transgender and transexual persons;
- educate medical staff and public administrations on the issues of transgender and transexual individuals; build up a team of medical workers which can offer full support before, during and after sex reassignment;
- adopt the amendments to healthcare laws of both entities and District that would regulate the coverage of sex reassignment procedures.



HATE CRIMES

HATE CRIMES

Recommendation: Inclusion of hate crimes in the criminal code of FBiH; ensure prompt and impartial investigation of hate crimes through proper training and adequate codes of conduct of law enforcement officers in FBiH, RS and BD

In the legal system of BiH hate crimes have not been defined and criminal laws differ depending on the region. In 2010, the criminal codes of Republic of Srpska and Brcko District introduced hate as an aggravating circumstance in all criminal felonies and recognize sexual orientation as a possible motive in such crimes. In the Federation of BiH such legislation has not yet been introduced. FBiH does not recognize hate crime as such.

In Republic of Srpska a procedure for adoption of the Law on amendments to the Criminal law is in place. The Draft of this Law includes sexual orientation and gender identity as motives of a hate crime. The adoption of this Law is expected by the end of 2013.

In 2012 Sarajevo Open Centre documented several cases within their programme of free legal counselling, which prove that the situation needs an immediate solution.

The first case, in April of 2012, considered the attack and insulting of a group of students that tried to get information about the discriminatory questionnaire for potential voluntary blood donors, which prohibited homosexual and bisexual persons from donating blood. These students were mocked, one was attacked by the technician of the Institute for blood donation, and another student who declared herself openly as a lesbian was threatened by the librarian of their Faculty. This case was reported to the police and the Institution of Ombudsperson. We have no information about the procedures taken to investigate the responsible individuals in this case. However, after these incidents the students were sued for disturbance of public peace and order.

The next case we documented, in May of 2012, was a phone call threat to Sarajevo Open Centre, when an older man threatened to “come and deal” with the people working in this organisation because of their text against a certain newspaper and religious group. This case was reported to the police, but they could not do anything because a phone call threat is not predicted as a criminal felony by the Criminal law of Federation of BiH.

We also documented a case of a transgender individual that was brought to the police station for disobeying a police officer on the street, but was mocked by the police officials in the station after they saw his documents which were

in his female name, calling him “Miss or Mr”, while laughing at him. This incident happened during the summer of 2012 and was not reported to the superiors in the police station.

In December of 2012 a young man was attacked in Mostar because of his sexual orientation. Witnesses of the event confirmed that the perpetrators knew that the victim was homosexual and that was the reason they attacked him. The young man did not want to go public and we could not reach or contact him in any way, but our sources confirmed that the injuries were severe and that the young man was in hospital, as well as that the police and prosecutor’s office were not very agile in their work as was expected of them. The perpetrators have not yet been found or arrested.



HATE SPEECH

HATE SPEECH

Recommendation: journalists need to be sensitized to the need for objective reporting about LGBT persons and issues, not to perpetuate stereotypes and incite discrimination and/or violence.

Legislation penalizing hate speech exists in the criminal laws of FBiH and Brcko District. In Republic of Srpska hate speech is not expressly recognized, although criminal law prohibits incitement of ethnic, racial and religious hatred. None of them penalize specifically homophobic or transphobic hate speech. Both the Communications Regulatory Agency in BiH, in charge of audiovisual and radio media, and the Press Council in BiH, a self-regulated body in charge of printed media, include sexual orientation in their codes as a ground for discrimination and prejudice, to be avoided.

Hate speech in BiH, particularly expressed on web portals, facebook pages, news and articles regarding LGBT topics is quite common. Almost no articles concerning LGBT issues go without comment stating that LGBT persons are sick, that homosexuality is a social deviation, western disease, and some even go as far as inciting discrimination, violence or murder of LGBT persons or evoking ideology of Nazism towards LGBT persons. These cases are not properly handled; the police cannot usually process them because most of the comments are anonymous and hate speech on the internet is not regulated by the laws in BiH. The only method of dealing with hate speech on online portals is through the Press Council in BiH. The Press Council cannot sanction the portals that publish or enable posting hate speech on their portals; after receiving a complaint, it can only issue recommendations to the portals in question, advising them what to do about the particular texts or comments the complaint addressed. The Communications Regulatory Agency however, has wider jurisdiction and can actually fine a TV or radio station who transmits or enables transmission of hate speech in its programmes.

In 2012 the Regulatory Agency sentenced the television station TV PINK with 2000 KM (ca. 1000 EUR) fine for transmitting homophobic SMS messages that viewers were sending during the TV show called "Zabranjeni forum" whose topic was "Sex reassignment – body as a trap". The Regulatory Agency concluded that TV PINK should have approached this kind of topic with greater sensibility and care given the reactions these kinds of topics evoke in BiH society.

Also in 2012, Press Council addressed online magazine Saff regarding the article called "AIDS is actually GRID" (gay related immune deficiency), asking the magazine to publish the reactions of the organisation that filed a complaint against the article, since the article was offending and discriminatory.

However the editor of the magazine refused to do so and responded that the article in question reflects its author's opinion and that those complaints should be addressed to him directly.



FREEDOM OF ASSOCIATION, EXPRESSION AND ASSEMBLY

FREEDOM OF ASSOCIATION, EXPRESSION AND ASSEMBLY

Recommendation: *Need for further training of law enforcement officers and coordination among Ministries of Internal Affairs to ensure that every group of citizens exercises their right of freedom of assembly in conditions of security.*

Although freedom of association, expression and assembly is deeply rooted in BiH legislation and in theory includes LGBT persons, it will only be proven as real when the LGBT community gains the confidence to try to exercise these freedoms fully in BiH.

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

It is our opinion that the police did not want to prohibit the gathering directly in order to avoid negative publicity and that this was actually an indirect way of prohibiting an LGBT gathering.

DISCRIMINATION

DISCRIMINATION

Recommendation: Proper terms, as well as definitions, of sexual orientation and gender identity should be introduced in the Anti-discrimination law of BiH. All existing and newly adopted legislation should be harmonised with the Anti-discrimination law.

The Anti-discrimination law prohibits discrimination on the ground of sexual orientation and gender identity, however the terms “spolna orijentacija” i “spolno izražavanje” which are used to describe sexual orientation and gender identity, might lead to possible misinterpretations, even though their meaning is the same, and should be replaced with “seksualna orijentacija” (sexual orientation) i “rodni identitet” (gender identity).

The Law also clearly states that all existing legislation should be harmonised within a year, which has not been done.

In 2012 The Institute for blood donation FBiH used a discriminating questionnaire for voluntary blood donors which prohibited “everyone who had permanent or occasional contact with homosexuals” from donating blood. Every person identifying as gay or lesbian was deferred from donating blood. After the advocacy and actions of LGBT organisations and activists the questionnaire was changed by the end of the year, and the Institute contacted and consulted an LGBT organisation prior to making a new one. The new questionnaire was finally put to use and included questions referring to sexual behaviour (“whether they have engaged in risky sexual relations”) of a potential donor rather than to his or her sexual orientation. After the joint action of two organisations dealing with the LGBT community and rights it was confirmed that the new questionnaire is being used, that the personnel of the Institute do not abuse their professional position and that the sexual orientation of an individual is no longer used as a donor deferral criteria.

MEDIA

MEDIA

Recommendation: *Media should avoid portraying LGBT persons only through their sexual orientation, they should include more BiH related LGBT topics and they should report about LGBT persons the same way they report about heterosexual persons, ethically and professionally without sensationalism of any kind, not allowing any kind of hate speech or discrimination to be transmitted through their news.*

In BiH, the media still has a sensationalist approach to LGBT topics because it attracts a greater number of viewers and readers, usually their reporting falls into one of these six patterns⁴:

1. relating LGBT unrelated topics within an LGBT context in order to spread prejudice and hate or to make it more interesting to the general public;
2. informing about pride in neighbouring countries such as Serbia and Croatia, including pride announcements, organisation, bans and events;
3. presenting LGBT through pop culture, LGBT celebrities, statements of the celebrities about LGBT, homophobic or positive, etc;
4. reporting about positive developments in recognising the rights of LGBT persons; Obama's statements, marriage equality issues; legal issues of LGBT;
5. interviews with LGBT persons from BiH;
6. texts from various authors, whose topics range from Slovenia and marriage equality, to Montenegro and combatting discrimination, to the Serbian movie called *Pride*.

In their struggle to achieve higher ratings the media usually go beyond their ethic code and professional reporting and publish articles such as "*The youngest homosexual in BiH is only 12 years old!*" which was published in the most popular daily newspaper *Dnevni avaz* in 2012. The data used in the article was actually based on a study conducted by the Institute for public health of Federation of BiH on the risk of HIV infection, which targeted 248 MSM. Even though the findings of the research were public, collected data was supposed to remain confidential, especially when it concerns minors.

However not all media use LGBT topics in such a way; some of the media, such as the magazine *Dani* published several interviews with LGBT artists, emphasising their area of work as the main reason for the interview,

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4 Čaušević, Jasmina, and Kristina Ljevak. Čekajući ravnopravnost. Analiza sadržaja izvještavanja pisanih medija o LGBT temama U 2011. i 2012. godini. Sarajevo: Sarajevo Open Centre, 2012. (<http://www.soc.ba/templates/lightbreeze-red/media/Analiza%20printanih%20medija-FINAL.pdf>)

portraying them as successful and talented individuals whose sexual orientation is just one, and certainly not the most important nor interesting, aspect of their personality.

In 2013 Sarajevo Open Centre created a web portal dedicated to LGBT people in Bosnia and Herzegovina. This portal named *LGBT Rights* is the first web portal of its kind and is primarily aimed at empowering LGBT persons, offering them legal counselling and an opportunity to report discrimination and hate crimes online. The portal is also a place where LGBT persons and everyone else who is interested can find information about activities and events related to LGBT persons, their rights and culture in BiH, the region and the world.



EDUCATION

EDUCATION

Recommendation: *To adopt amendments to legislation governing education in BiH where sexual orientation and gender identity will be explicitly prohibited as grounds of discrimination concerning the right to education of LGBT students, and to develop and implement educational strategies that will oblige relevant authorities on all state levels to revise the curriculum in order to remove inaccurate information and stereotypes that affect the emergence and development of homophobia, biphobia and transphobia.*

In 2005 Organisation Q conducted research concerning education of LGBT persons. This research revealed 17.1% of the 210 LGBT persons that answered the questionnaire were discriminated against and verbally abused in schools and the education system on the grounds of their sexual orientation and gender identity, and 45.7% confirmed that homophobia, biphobia, transphobia, sexism and genderphobia are present at all levels of education.

Organisation Q also conducted analysis of textbooks and materials used in education. This analysis showed that the educational curriculum varies within the different state levels, and contains and supports prejudice and stereotypes, especially about women and LGBT persons. According to most of these textbooks only heterosexual biological men and women whose gender identity is an expression of their biological sex are socially acceptable. In general they promote heteronormative ideas and emphasise heterosexual marriage and family as the basis of society.

In 2012 Kosmos organisation conducted pilot research on the opinion and the level of homophobia in high school students in BiH. Out of the 439 students that participated in the research 19.58% think that verbal abuse of LGBT persons is acceptable, while 57.85% thinks it is not acceptable, 21.86% answered they did not know whether it was acceptable, and 3% did not answer at all. Regarding physical violence 18.9% students consider violence against LGBT persons justified, 18.90% had no opinion on the subject, 3% did not answer and 61.73% disagree with violence and think it cannot be justified.

Some of the data gathered by this research shows that:

- 63.55% of students think that LGBT persons should not have the right to publicly express their sexuality;
- 48.74% would feel uncomfortable around an LGBT person;
- 51.02% of students think homosexuality is a disease;
- 54.89% of them consider homosexuality unnatural;
- 35% of students would stop being friends with someone if they found out they were homosexual;

- 73.12% students think homosexuality is private and should not be displayed publicly;
- 63.09% of students do not want to live in a society where homosexuality is considered normal, and
- 59.34% of them think the government is not responsible for enabling the respect of rights and freedoms of LGBT persons.



ACCOMPLISHMENTS OF SARAJEVO OPEN CENTRE IN 2012

ACCOMPLISHMENTS OF SARAJEVO OPEN CENTRE IN 2012

In 2012 Sarajevo Open Centre worked on advocating for the rights of LGBT persons, promoting their rights in media and culture and providing direct support to LGBT persons.

Advocacy of rights of LGBT persons:

- we established the only civil society led LGBT human rights violation documentation system in BiH, that resulted in an Annual report on LGBT rights for 2012;
- we started the first educational programme for young lawyers on LGBT rights;
- we implemented a countrywide system monitoring the implementation of the Council of Europe Committee of Ministers Recommendation on measures to combat discrimination on the grounds of sexual orientation and gender identity;
- we established relations with police agencies in different parts of BiH, and agreed with them to set up posters saying “Police are there to protect all citizens! LGBT persons are welcome here!” in their police stations. We made contact with the police in Canton Sarajevo and now have our own contact officer within its police force;
- we advocated against the discriminatory questionnaires’ at the blood donation institutes in BiH which stated that “everyone who had permanent or occasional contact with homosexuals was prohibited from donating blood”. After the action of LGBT activists and the advocacy work of SOC, the discriminatory questionnaire was changed, and another one issued, which emphasises the sexual behaviour of any person instead of sexual orientation as a deferral criteria;
- we provided the initiative to the FBiH Parliament to introduce hate crimes in the Criminal law of FBiH which was accepted, and are one of the founders of the Coalition for combating hate crimes and hate speech which advocates for proper regulation of hate crimes and hate speech on all state levels.

Promoting rights of LGBT persons in culture and media

- in order to provide a web portal that will contain news concerning LGBT persons as well as information on the position of LGBT persons and their rights in BiH, we have started the first web portal on LGBT rights in BiH: www.lgbt-prava.ba
- we published several books and promoted and distributed them countrywide: *Dictionary of LGBT culture*, *Textbook on LGBT rights*, guide for

journalist on LGBT rights; publication on non heterosexual women in BiH, guide for LGBT persons on how to exercise their rights.

- we organized more than 32 LGBT film screenings in Sarajevo, Mostar, Tuzla and Banja Luka, aimed at raising public awareness on the issues LGBT persons face every day.

Support to LGBT persons

- we started offering specialized legal counselling to LGBT persons that is supported by different guides for the LGBT community
- we are organizing touring empowerment workshops for LGBT persons in Tuzla, Mostar, Sarajevo, Zenica and Banja Luka, which all consist of different educational topics, such as history of LGBT persons, religion and its relationship with LGBT persons, language and its proper usage, proper terminology, and human rights of LGBT persons and their protection.



APPENDIX: THE POLITICAL STRUCTURE OF BIH

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The political system of Bosnia and Herzegovina is very complex and consists of the two Entities (Federation of BiH and Republic of Srpska) and Brčko District. The responsibilities of, and relations between, the common institutions of the State, Entities and District, are regulated by the Constitution of BiH. The State and the entities each have their own Constitution and different administrative and political systems. Brčko District has its own administrative system and its own Statute, as the highest legal act.

At the state level there is a tri partite Presidency, whose members - one Bosniac, one Croat and one Serb - rotate every eight months, a Council of Ministers and Parliamentary Assembly: the House of Representatives and the House of People. Both entities have a President and a vice-president, and all the necessary Ministries. However, their legislative branches are quite opposite; the Federation has the same scheme as the common institutions, i.e. House of People and House of Representatives, while Republic of Srpska has only a National Assembly. The Federation was divided into 10 cantons.. Cantons are granted substantial autonomy; they have their own local government and are allowed to adopt cantonal laws, as long as they do not contradict the Federation laws. The District's structure is based on an American-style concept of municipal organization operating under a Chief Executive (Mayor) with a District Assembly and ten different departments, which were created to correspond to the ministries in the entities.

The institutions at the State level are notably responsible for foreign, financial and monetary policies, immigration, refugee and asylum policy and regulation, and most important for protection of human rights, by way of the Ministry of Human Rights and Refugees, Institution of Ombudsperson for Human Rights and Gender Equality Agency.

The highest judicial bodies are the three constitutional courts, one for each entity, one at the state level and the Appellate court of Brčko District. Police forces are under the jurisdiction of entities and the District, within the Federation regulation of the police is the common responsibility of both Federation and the cantons.

The entities, the District, and the cantons within Federation of BiH, have their own jurisdiction and their own ministries of health, education, internal affairs, social care, etc. Each of the entities also has a gender centre working with discrimination on the ground of gender and sexual orientation.

LGBT GLOSSARY

LGBT GLOSSARY

ACTIVISM

Political belief that acting on individual or collective level can create social and political change. Activist views do not deny the importance of conventional institutional structures (law, media, education etc.), but encourage people to approach them directly. Although activism is not radical by definition, it is most common in areas where some form of discrimination has become too repressive, and therefore it is often opposed to power relations that tend to maintain the *status quo*.

ASSIMILATION

Lesbian and gay political ideology, emphasizing that there are no significant differences between heterosexual and homosexual people. This belief is expressed through the hope that lesbians and gays will be given equal access to all resources and privileges available to the heterosexual majority, if they behave in a way that is acceptable to the dominant culture. But as social acceptability is based on contingent factors such as class, race and gender, those who are their main protagonists/promoters are often the least vulnerable individuals (middle class white males).

BIOLOGICAL SEX

Determined by chromosomes (XX, XY), hormones (estrogens, progesterone and testosterone), internal and external genitals (vulva, clitoris, vagina, testicles and penis). Constructivist theories claim that sex (like gender and gender roles) is a convention (social construction).

BIPHOBIA

Irrational fear, intolerance, prejudice and/or discrimination against bisexual individuals made by heterosexual (in this case, synonym for homophobia) or homosexual people.

BISEXUAL PERSON

Person whose sexual orientation is directed towards people of both sexes, i.e. person who is sexually and/or emotionally attracted by people of both sexes.

CHOSEN/OTHER FAMILY

Network of friends, partners and ex partners from whom an LGBT person asks for (and receives) support, sometimes to compensate for something that has been interdicted from his/her primary surroundings.

CISGENDER

Notion used to describe individuals whose gender identity is in accordance

with the sex assigned to them at birth.

CISGENDER PERSON

Person who identifies him/herself with the male gender or female gender, in accordance with his/her own biological male or female sex.

COMING OUT

Concept derived from the phrase: *coming out of the closet*, routinely used to describe public or open declarations and affirmation of one's (homo) sexual orientation. It is common on two levels: as a self-discovery, and as a more or less public notification. Coming out from silence is coming out from isolation and negation, and it announces to other people the right to a different life. In activism and queer theory, *coming out* is a political act of resistance and confrontation to traditional views.

DISCRIMINATION

Discrimination means every distinction, exclusion, limitation and form of putting a person or a group of persons at disadvantage. There are various grounds and characteristics by which a person or group of persons is led to a disadvantaged position (sexual orientation, gender, gender identity, gender expression, age, political affiliation, etc.)

INDIRECT DISCRIMINATION

Any situation in which, neutral regulation, criterion or practice, has or would have the effect of putting a person or group of persons in an unfavorable or less favorable position in respect to other persons.

DIRECT DISCRIMINATION

Any differential treatment or failure of treatment, when a person or group of persons has been or could have been brought at a disadvantage as opposed to some other person or group of persons in similar situations.

INSTITUTIONALIZED DISCRIMINATION

Social precept reflected in the institutions of power (language, media, education, economy, religion, etc.) that favor one group (or one system of quality) against the other. Contemporary theories agree in principle that this is a group of white (race) heterosexual (orientation) middle-aged (age) men (gender), who are members of the middle or upper-middle class (class). Everyone who, in one way or another, deviates from the given group is treated as a minority (even when they form a more numerous group). The power over that group, even over approximately equal (e.g., black men with all of the above features) or larger groups (women in general), is held by these institutions.

MULTIPLE DISCRIMINATION

Describes discrimination that occurs on several grounds (for example, the same person may experience discrimination based on sexual orientation,

gender identity, race, etc.). This refers to a situation in which there are multiple grounds of discrimination at the same time, and they are difficult to separate and to be considered separately.

HARASSMENT

Harassment is considered discrimination in any situation in which behavior related to race, color of the skin, language, religion, ethnicity, national or social origin, connections with a national minority, political or other opinion, financial status, membership in a trade union or other association, education, social status, gender, sexual orientation or expression, has the purpose or effect to violate one's dignity and create an intimidating, hostile, degrading, humiliating or offensive environment.

SEXUAL HARASMENT

Sexual harassment is every form of unwanted verbal, non-verbal or physical conduct of a sexual nature which has the purpose or effect to harm the dignity of a person, especially when it creates an intimidating, hostile, degrading, humiliating or offensive environment.

MOBBING

Mobbing is a form of non-physical harassment in the workplace that implies repetitive actions that have the effect of degrading the victim. Its purpose or effect is to degrade one's working conditions or professional employee status.

SEGREGATION

Segregation is an act with which one person (natural person or legal entity) separates other persons on the basis of race, colour, language, religion, ethnicity, national or social origin, connections with a national minority, political or other opinion, financial status, union membership or other association, education, social status, gender, sexual orientation or expression, in accordance with the definition of discrimination.

DRAG

The word was originally used in Shakespeare's *Globe Theatre* as a label for actors who played female roles (as there were no actresses). The term generally refers to the costume and disguise (hence the phrase *in drag* - disguised in the clothes of the opposite sex). It is primarily an allusion to a man's way of acting, imitating women, thus giving a gender performance, demonstrating the fluidity of gender identity that is normally considered fixed by its definition.

DRAG KING

Lesbian/straight woman simulating a man.

DRAG QUEEN

Gay/straight man simulating a woman.

FAGGOT

Slang term that, when used in a homophobic manner, denotes gay men, especially implying a weak and effeminate character. According to some, the term itself originated from the medieval practice of burning sodomites on bundles of twigs (faggot). The term has a similar connotation in non-homosexual usage. It is not necessarily derogatory within the gay community and is often used as a self-affirmative parody on the straight connotations.

GAY

Basic meaning of the term is gleeful, merry. The term got a new meaning during the 19th century: female prostitutes were named gay with contempt. It was then attributed to men who were using their services, but also to male prostitutes. In the early 20th century, some American men and women adopted the expression as a substitute for the clinical term *homosexual person*. In the nineteen sixties and seventies, when the media accepted the gay movement's advocacy to substitute the term *homosexual* (used by psychiatrists to diagnose mental illness) with the term gay, it got broader use.

GAY MAN

Man who is sexually and/or emotionally attracted exclusively to men. Because of the historical weight of the term *homosexual*, it is recommended that this neutral term be used.

GENDER

Social construct of biological sex, which determines, by its definition, the social roles of men and women, i.e. males and females. It is also an individual construct of one's own identity/expression which confirms, denies and/or exceeds socially formed and assigned sexual and gender roles of men and women, as well as the binary basis of masculinity and femininity.

GENDER EXPRESSION

External, visible presentation of every person, which is reflected through clothing, hair, behaviour and body language.

GENDER IDENTITY

Associated with an individual's experience and comprehension of one's own sex, which may or may not correspond to the sex assigned at birth, and includes personal experience of their body or other gender expression such as clothing and mannerisms. One's sex is usually assigned at birth, immediately becoming a social and legal issue. Sex implies a personal concept/construct that can be compatible with socially regulated definitions of sex/gender, or can deny, transcend or change them. Some people have problems identifying themselves with the biological sex assigned to them at birth – these persons are called transgender persons. Gender identity is not the same as sexual orientation, and transgender people can identify themselves as heterosexual, bisexual and homosexual.

GENDERPHOBIA

Discrimination based on gender (gender roles, expression and norms) originating from non-acceptance and negation of the individual right to conceptualize sexual/gender identity and expression.

HATE CRIMES AGAINST LGBT PERSONS

Refers to criminal acts motivated by prejudices towards a person or group of persons. Hate crimes include deterrence, 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 or gender identity, or because the victim is connected, supports, belongs to or is a member of an LGBT group. For an act to be considered a hate crime, there must be a grounded suspicion that the offender was motivated by the victim's sexual orientation or gender identity.

HATE SPEECH

Hate speech against LGBT persons relates to public expression that encourages expansion, promotion or justification of hatred, discrimination and hostility towards LGBT persons – for example, statements made by political and religious leaders or opinions of other authorities published in the press or on the internet, aiming to incite hatred.

HETERONORMATIVITY

The assumption that everyone is heterosexual, i.e. that heterosexuality is ideal and superior, as opposed to homosexuality or bisexuality. Heteronormativity also includes privileging normative gender expression – what is necessary or imposed on individuals to be perceived and accepted as a *real man* or *real woman*, i.e. within the frame of the only available categories.

HETEROPHOBIA

Irrational fear, intolerance, prejudice and/or discrimination towards heterosexual persons, institutions based on heterosexual relations (marriage, family) or institutions supporting these relations (church, government).

HETEROSEXISM

Attitude that heterosexuality is the only valid sexual orientation. Heterosexism is often manifested in the form of ignoring the existence of LGBT persons.

HETEROSEXUAL PERSON

Person whose sexual orientation is directed towards persons of the opposite sex, i.e. person who is sexually and/or emotionally attracted exclusively to persons of the opposite sex.

COMPULSORY HETEROSEXUALITY

Phrase originated from the theory of lesbian feminism (Adrienne Rich),

suggesting complex, and manifold forms of relations amongst women. According to lesbian feminists, women are forced into heterosexuality, i.e. the sexual, emotional and physical role (working at home and taking care of the family) of serving a man. On the other hand, the historical suppression of reference to the life of lesbians and women who live independently of men as well as verbal and physical attacks on such women often leaves heterosexuality as the only option. The concept of lesbian feminism was a key factor to the interpretation of the ways/methods in which patriarchy operates. Since the mid-eighties of last century, this phrase is used more often by gay men to describe the automatic assumption that everyone is heterosexual without distinction.

HOMOPHOBIA

Irrational fear, intolerance, prejudice and/or discrimination against gay men and lesbians (and bisexual persons [see *biphobia*]). It manifests as unquestionable belief in heterosexual superiority which is encouraged by cultural and institutional social practices. This incites violence against persons who are not heterosexual, which is justified by a belief in heterosexual superiority (and the inferiority of others). Violence is reflected in verbal and physical attacks, prohibition/removal of children from non heterosexual parents, as well as discrimination in employment, payment of taxes, retirement, immigration proceedings, etc. These forms of discrimination are a part of the social domain and many homophobes will deny taking part. However, homophobia is easy to recognize on the individual level in everyday situations, e.g. when a woman is thought to be a lesbian because she is unable to find a male partner or because she wants to be a man, or when a lesbian or gay man is not perceived as a complete person but solely on the basis of their sexual orientation.

INTERNALIZED HOMOPHOBIA

Internalized self-hatred arises as a result of the acceptance of negative stereotypes created by an oppressive community. It often involves conflicting feelings that non straight persons are either inferior and inherently bad, or that they are superior or exclusively good; that such information can be trusted only to members of the group or that it cannot be trusted to members of the group at any cost; that for the sake of safety one should hide forever, or conversely that for safety's sake one should come forward and reveal their sexual orientation; that there is no safe place in the whole world, etc.

HOMOSEXUAL

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

SITUATIONAL HOMOSEXUALITY

Sexual behaviour which is different than one's usual behaviour, occurring due to the existence of a social environment that consists solely of people of

the same sex, e.g. religious and other schools attended exclusively by students of the same sex/gender, prisons, sex for money with same sex partners, etc.

INTERSEXUAL PERSON

People born with chromosomal, hormonal or genital characteristics that do not match specified standards of the *male* and *female* categories because of their sexual or reproductive anatomy. This term replaced the term *hermaphrodite*, which was widely used by doctors during 18th and 19th centuries but is considered to be unprofessional today. Intersexuality can take many forms and include different states of intersexual people.

LESBIAN

Woman who is sexually and/or emotionally attracted to other women. *Lesbian* is one of the oldest and most affirmative terms for homosexual women, which in lesbian feminist theory does not only refer to a sexual identity opposing the conventional expectations of a member of the female gender, but also a social and political identity created to oppose male chauvinism, patriarchy, heterosexism and phallocentrism. The term originated from the name of the Greek island Lesbos where poet Sappho, who eulogized love between women, was born.

LGBT

All encompassing term used to denote lesbians, gay men, bisexual, and transgender people. The term denotes a heterogenic group usually identified by the title LGBT in social and political activism. The term LGBT can sometimes be expanded to include intersexual and queer persons too (LGBTIQ).

LGBTIQ

Abbreviation for lesbians, gay men, bisexual, transgender, transexual, intersexual and queer persons.

LIFESTYLE

Term often used to degrade the lives of gays and lesbians, so its use should be avoided. As there is no such unique heterosexual lifestyle, there is also no particular gay lifestyle.

MISOGYNY

Hatred towards women or the female gender in principle.

OUT

Describes a person who identifies their sexuality/gender/sex in their public and/or professional life.

OUTING

Act of publically announcing that someone is gay, lesbian, bisexual, or of other sexual orientation. The majority of the gay and lesbian community

oppose the possibility that any person other than the one in question can decide when and to whom one can talk about one's sexual orientation. The lesbian and gay community in Bosnia and Herzegovina uses this term for situations in which a gay man or lesbian decides to speak about their sexual orientation. This way, for example, it can be said that a lesbian came out to her father, i.e. she told her father that she is a lesbian.

PATRIARCHY

Social system in which men have a dominant role in regard to women. A patriarchal system of values and social norms creates the foundation for maintaining the existing systems of power and privileges that are continuously provided to men.

POLYAMORY

Manifold and open love relationships, as opposed to traditional relationships. These relationships work under the conditions that all persons involved are aware of each other, and that the relations are based on consensus.

QUEER

Term that primarily refers to everything that is different from the conventional or usual way (synonym for weird, eccentric). Connotations of this term in gay usage were initially negative, and there is resistance to this term even today, especially among elderly homosexual people. Since the term subversively unmasks existing, supposedly fixed models, discarding differences (all LGBTs are covered without distinction) and identities (none of the LGBT identities is favoured), the term is becoming more widely accepted. Many transexual, bisexual and even heterosexual people whose sexuality does not fit the cultural standards of a monogamous heterosexual marriage, have accepted this label as sexual dissidents. It was used earlier in the English language as a derogatory way to refer to non-heterosexual people. The term was later taken over by LGBTTIQ persons as a way to describe themselves. Some people particularly appreciate this term because it signifies defiance and includes diversity – not only gays and lesbians, but also bisexual, transgender, intersexual people, and even heterosexual people living outside the hetero patriarchal norms.

QUEER THEORY

School of literary and cultural criticism that appeared in the USA in the early nineteen eighties. It owes its intellectual origin to feminist theory and French philosophers such as Michael Foucault and Jacques Derrida. Queer theorists analyze all types of texts aiming to disfigure the fundamental meaning, distinctions and relations of power within the culture that produced the text. Those analyses reveal complex cultural strategies that enabled the regulation of sexual behaviour, often resulting in repression and discrimination of sexual dissidents who violate sexual taboos or do not fit into culturally sanctioned gender roles. Queer theorists are aiming to destabilize cultural ideas about naturalness, normalcy, sexuality and hetero/homosexuality terms

that have been used to discriminate against people who have not accepted the Western ideal of a monogamous heterosexual marriage. Queer theory is largely linked with social constructivist theory, and is in opposition to essentialist ideas (for example, the notion that someone in their essence or essential definition is gay man or a lesbian) that exist primarily within the old conceptualization of non-heterosexual identity (see lesbian identity). Some of the most famous characters in queer theory are Judith Butler, Eve Kosofsky Sedgwick, Cindy Patton, Diana Fuss, Leo Bersani and Simon Watney.

RAINBOW FLAG

Symbol of unity and diversity. It is used all around the world as a characteristic sign of peaceful feminist and LGBTTIQ movements.

SEX

Classification based on reproductive organs/functions and genitals of a male, female and intersex. Socially accepted sexes are limited to male and female.

SEXISM

Discrimination and/or views, conditions and behaviours through which stereotypes and repressive social norms and roles are promoted based on sex and gender. It refers in particular to norms, values, beliefs, structures and systems that marginalize women and assign power, privilege and advantage to men. Forms of violence against women can be made individually or institutionally.

SEXUAL IDENTITY

Sexual identity refers to the way we identify and perceive ourselves. These terms include straight, gay, bi, queer, undetermined, undecided, asexual etc. Our sexual behaviour and the way we characterize ourselves (identity) represent the matter of possible choice/decision and do not solely imply the binary concept of masculinity and femininity.

It is also individual identification of sex and sexual determination, which is not dependent on the sex assigned at birth.

SEXUAL ORIENTATION

Emotional and/or sexual attraction or affection towards persons of the same and/or opposite sex. Use of the offensive term *sexual preference* should be avoided as it is often used to imply that orientation towards the same sex is something that can and should be changed.

STRAIGHT (STR8)

Denotation refers to something without deviation, not mixed; conventional, does not breach the norms accepted as usual, normal and natural. Neutral label for heterosexual persons within queer community.

TRANSGENDER

All encompassing term used to describe different persons, behaviours and groups who commonly, partially or completely oppose imposed gender roles. The term does not refer to one's sexual orientation.

TRANSGENDER PERSON

Term used for persons whose gender identity is not in accordance with their sex assigned at birth, but also for persons who wish to express their gender identity differently than 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, mannerisms, make up or body modifications. Among other things, the term transgender refers to persons who do not identify themselves as male or female, transexual, transvestites or cross dressers. A transgender man is a person who was assigned the female sex at birth, but his gender identity is masculine, or in the spectrum of masculine gender identities. A transgender woman is a person who was assigned the male sex at birth, but her gender identity is feminine, or in the spectrum of feminine gender identities. Labels for the sexual orientation of transgender persons are used in accordance with their gender identity, not the sex they were assigned at birth. A transgender heterosexual man is, for example, a transgender man who is attracted to, and chooses women as partners. The term transgender refers to the transgender identity and expression.

TRANSEXUAL PERSON

Person who has clear desire and intent to modify their sex, or who has partially or completely modified (including physical and/or hormonal therapy and operations) their body and presentation, expressing their gender and/or sexual identity and sense of self.

TRANSPHOBIA

Analogous with biphobia and homophobia, it is a form of discrimination based on fear, ignorance and hatred against transexual and transgender persons. This prejudice can be perpetuated by straight people, gay men, lesbians and/or bisexual persons.

INTERNALIZED TRANSPHOBIA

Characteristic of trans persons experiencing guilt, shame, lack of self-confidence, or have a negative image of themselves, because they implicitly or explicitly accept social stigmatization.

TRANSVESTISM/TRANSVESTITES

Transvestites are persons who enjoy wearing clothes of the opposite sex. Transvestism, i.e. cross-dressing, is not linked to sexual orientation. Transvestites can be heterosexual or same sex oriented persons.

TRANSITION

Represents the process of changing one's gender expression to adjust to the inner experience of one's own gender.

TRIANGLE/BLACK TRIANGLE/PINK TRIANGLE

During the Second World War, Nazis labelled gay men in concentration camps with pink triangles, and lesbians, Roma women and prostitutes with black triangles. During that period of time, tens of thousands of same sex oriented persons were executed in Nazi concentration camps.

AUTHORS

AUTHORS

Mariña Barreiro (1985, Noia) studied political science and international relations in Spain and France. She finished postgraduate studies in Prevention and Management of International Conflicts, as well as Master Studies in International Relations and Diplomacy at the Diplomatic school of the MFA of Spain. She worked as a Political Adviser at the Spanish Embassy in Sarajevo. At Sarajevo Open Centre, she is in charge of Human Rights Programme, with a focus on advocacy. She is the author of the *Monitoring the Implementation of the Council of Europe Committee of Ministers Recommendation on Combating Sexual Orientation or Gender Identity Discrimination. BiH Summary Report*. (2013).

Saša Gavrić (1984, Tuzla) graduated in 2007 with a Bachelor's degree in Political and Administrative Sciences from the University of Konstanz (Germany) and has an M.A. in International Relations and Diplomacy in Sarajevo. Currently he is working as the executive director of the Sarajevo Open Centre, leading projects related to human rights. He has edited several books on political system of BiH and numerous publications about LGBT rights and culture.

Vladana Vasić (1990, Sarajevo) finished law studies at the University of Sarajevo. She has been working in Sarajevo Open Centre since April 2012 on issues of advocacy, legal counseling and monitoring of the work of public institutions. Her text on media law was published in Huremović Lejla (ed.): *Izvan četiri zida. Priručnik za novinare i novinarke* (2012). She is the author of a report on legal status of transgender persons in BiH (2013.) and a publication about sexual orientation and gender identitiy: legislation and practice in BiH (2013).

ABOUT SARAJEVO OPEN CENTRE

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Sarajevo Open Centre is an independent, non-political and non-profit organization that promotes full respect of human rights and decreases the level of discrimination on grounds of gender, sexual orientation and gender identity by empowering marginalized groups through community activities, promoting human rights within the society and advocating for policy change towards the public authorities.

Sarajevo Open Centre was established in 2007 and has been constantly working and increasing its scope of action from cultural programmes to a human rights programme, especially targeting Women, Lesbian Gay Bisexual and Transgender rights. We have been working intensively since 2011, when we opened our first office and had our first full time staff working in the Sarajevo Open Centre. Now, our team is composed of 10 employees and 2 volunteers.

We are part of the following networks:

- Koalicija protiv govora i zločina iz mržnje - Coalition against hate speech and hate crimes
- Ženska mreža u BiH – Women’s Network in B&H
- Regional Network Against Homophobia
- Babelnor Network
- Mreža izgradnje mira u BiH – Peace Network in B&H
- Mreža pravde u BiH – Justice Network in B&H
- Koalicija “Jednakost” protiv etničke diskriminacije- Coalition “Equality” against ethnic discrimination
- Omladinska mreža BiH – Youth Network in B&H

Our specific objectives are to increase awareness among state institutions/officials about the necessity to fully implement International, European and national human rights standards towards women and LGBT persons, to raise citizens awareness about the LGBT rights and political, social and economic rights of women and to empower and strengthen the LGBT community by implementing supportive community based activities, related to their rights and needs.

We have been the Focal Point for the ILGA Annual Review in 2011 and 2012, submitting contributions about the LGBT human rights situation to EU Progress Report, Universal Periodical Review (UPR), and Human Rights Watch.

EDITION LJUDSKA PRAVA OF SARAJEVO OPEN CENTRE

Editor Emina Bošnjak

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