



Serbia



Despite some improvements, the situation remains difficult. The right to freedom of assembly of LGBTI people was violated this year as the Belgrade Pride was banned by authorities. The risk of physical attacks and threats against members of the LGBTI community also continued to be high. At the same time, (i) the Belgrade Court of Appeal confirmed that hate speech against LGBT people cannot be justified under freedom of speech; (ii) the government started working on a *National Strategy against discrimination*; and (iii) a discussion on the rights of trans people has started.

Bias motivated speech

- In February, the Belgrade Court of Appeal confirmed that hate speech against LGBT people cannot be justified under freedom of speech and information. The court upheld the decision of the court of first instance and ruled in favour of Gay Straight Alliance (GSA) in the case between GSA and the daily newspaper Press. The decision was the first judgment concerning hate speech against LGBT people, and one of the first verdicts based on the *Anti-Discrimination Law*. The dispute concerned comments on the newspaper's online articles, where it permitted publication of comments which contained hate speech against LGBT people, insults, calls for murder, and threats of attacks on lives and property.
- In March, the leader of right-wing movement *Obraz* ('Honour'), Mladen Obradović, was sentenced to ten months imprisonment for inciting hatred against LGB people. The First Basic Court in Belgrade found him guilty for statements made prior to Pride Parade in 2009, which included phrases such as: "We're waiting for you", "Death to faggots", "Blood will flow; there will be no gay parade in Belgrade". Prior to this conviction, he had already been sentenced to two years in prison for his leading role in the riots around Belgrade Pride 2010. In November, the Court of Appeal in Belgrade overturned the verdict of first instance for Mladen Obradović and the case was returned to the trial court for re-trial.
- In June, the website of GSA was hacked and the text "Serbia, ask yourself where are you going?", accompanied by two photos, was subsequently displayed on the website. The first photo portrayed a 'traditional family': a man, a woman and a baby, with the text "This is what we offer". On the other photo, there were two men painted with rainbow colours with the text "This is what you offer".
- In June, the Constitutional Court banned the right-wing movement *Obraz* due to its incitement to hatred and support for violence. The court ruled that the organisation be removed from the Register of Associations.
- In July, the First Basic Court in Belgrade ruled in favour of GSA in a case against Nebojša Bakarec, a politician from Democratic Party of Serbia (DSS). In 2011, Bakarec had stated in an online article of Vidovdan Magazine that homosexuality is not normal and it should be treated by

psychiatrists and psychologists. The court ruled that he had violated the *Anti-Discrimination Law* and ordered him to cover GSA's litigation expenses. The judge emphasised that freedom of speech does not produce a right to hate speech.

Bias motivated violence

- In February, Lawyers' Committee for Human Rights (YUCOM) and Gay Straight Alliance (GSA) presented state institutions with an initiative to introduce a definition of hate crime (inclusive of the grounds of sexual orientation and gender identity amongst others) in the *Criminal Code*, and addenda to certain articles of the *Code* under which the motive of hatred would be regarded as an aggravating circumstance, increasing the punishment for such acts. The law on amendments and addenda of the *Criminal Code* was adopted by legislators in December and it treats the homophobic and/or transphobic motive of the crime as an aggravating feature.
- In September, a 25-year-old gay man was seriously beaten in the centre of Belgrade. The police later found the victim in a semi-conscious state and he was taken to the Emergency Centre. He was diagnosed with several severe bodily injuries, concussion, a sprained neck, cracks to the teeth of the lower jaw, several bruises, hematoma and facial abrasions. The attackers managed to flee before being caught.
- ILGA-Europe collected information on two other homophobic and one lesbophobic physical assaults perpetrated in 2012. This information was collected as part of documentation activities in preparation of the OSCE/ODIHR's annual hate crime report, to be published in November 2013.

Enlargement

- In March, Serbia was granted candidate country status in the EU accession process. In its October report on Serbia, the European Commission took note of the fact that "Several physical attacks and threats on members of the LGBT population and those promoting LGBT rights continued to occur and the 2011 and 2012 pride parades were banned because of security threats" and emphasised "the need [for Serbian authorities] to develop a proactive

approach towards the better inclusion of the LGBT population and a greater understanding across society” noting that the new government has not yet taken the initiative in this regard.

Equality and non-discrimination

- In May, the Office for Human and Minority Rights, Public Administration and Local Self-Government announced that they had started to draft a *National Strategy against discrimination*. An open invitation was sent to civil society organisations, including LGBT organisations, to take part in the process. Six LGBT organisations have responded to the call and are included in the process of the drafting of the strategy.

Family

- Labris, in coalition with NGOs fighting discrimination, presented a draft proposal of a law on same-sex partnership in roundtable discussions in Belgrade, Novi Sad and Nis. The aim of this initiative was discussion with wider civil society and other stakeholders and to lay the ground for public debate and campaigning in 2013 on family rights of LGBT people.

Freedom of assembly

- In June, to mark *International Pride Day* a group of LGBT organisations organised a ‘small parade’ in the city centre of Belgrade which passed without incident. Earlier that day a rainbow flag was displayed in the window of the offices of the Commissioner for the Equality, Gender Equality Institute from Vojvodina, the Institute of Culture (Youth Centre) as well as the national Ombudsman who expressed support for the event.
- In June, an event called *Demonstration of Cardboard LGBT Dolls* was twice denied permission in the city of Kragujevac. The local authorities gave security reasons as the basis for the refusal. The same event was successfully undertaken in main squares in Novi Sad, Niš and Belgrade drawing the interest of passers-by who were given information by the activists about the situation of LGBT people in Serbia. The actions were undertaken to mark *International Pride Day* and passed without incident.

- Belgrade Pride, with a theme *Love, faith, hope*, was planned to be a festival week with different events concluding with a Pride March on 6 October. While the Pride festival could take place, the Pride Parade itself was banned by the Serbian authorities. On 3 October, the Interior Ministry announced the ban on the Pride March and all other public gatherings on the same date. The ban was condemned by the UN High Commissioner for Human Rights Navi Pillay, the Secretary General of the Council of Europe Thorbjørn Jagland, EU Enlargement Commissioner Štefan Füle and many other high level officials, including the Serbian Commissioner for the Equality, Gender Equality Institute, and the Gender Equality Institute. National and international human rights organisations also reacted to the ban calling on the Serbian government to respect its international human rights obligations and ensure freedom of assembly for LGBTI people.

Freedom of expression

- Prior to the ban on the Belgrade Pride March, Serbian Orthodox Patriarch Irinej had called for the ban on both the march and a photo exhibition by Swedish artist Elisabeth Ohlson Wallin, which shows Jesus Christ dressed in women’s clothing, claiming it was ‘deeply insulting’.
- Right-wing movement *Dveri* (which has registered as a political party) has filed charges against the organisers of the above mentioned photo exhibition for ‘inciting national, racial and religious hatred and intolerance’. The movement believes that the exhibition targets traditional religions and religious communities.

Legal gender recognition

- In February, the Commissioner for Protection of Equality issued a statement and recommendation to the Law Faculty of Belgrade which refused to change the graduation certificate of a former student who had changed sex. The Commissioner ordered reconsideration and fulfilment of the request made by the trans person. At the same time, the Commissioner for Protection of Equality and the Office of the Ombudsman of the Republic of Serbia formed a joint working group to work on issues relating to trans persons. Two of Gayten-LGBT

members were invited to join this working group. The group has produced an extensive analysis of the existing legislation and a set of recommendations for the improvement of the legal and social position of trans persons in Serbia. However, no final document was published yet.

- In March, the Constitutional Court ruled in favour of a trans person in a case against a municipality that had refused to change his name and gender marker in the civic register. The applicant had undergone gender reassignment surgery, after which he had asked the authorities to change his legal gender. The court ruled that, by refusing, the authorities denied the applicant's right to dignity and personal development.
- In May, Gayten-LGBT together with Coalition Against Discrimination proposed a *Model Law on Legal Recognition of Gender Identity* and expressed their disapproval of the proposed government draft. As a result, the government withdrew the draft.
- In October, following the *Rights of Trans persons – From Non-Existence to Creation of Legal Framework* roundtable, organised by Gayten-LGBT with the support of the Republic Ombudsman Office and Coalition against Discrimination, with relevant state institutions and other international and national stakeholders, the Serbian Ministry of Justice and State Administration published a draft law to regulate gender identity change which stipulated that court permission was a prerequisite for a trans person to be able to start their transition process. Gayten-LGBT found the draft law proposed by the Ministry to be discriminatory and unconstitutional as it stipulates that trans people should seek court permission before undergoing gender reassignment and change of personal documents.

Participation in public/political life

- In March, prior to the parliamentary, provincial and local elections, GSA and Queeria Centre launched campaigns *It Matters* and *Pink ballots* to highlight LGBTI issues in political debates and to encourage participation in the elections.

Member organisations of ILGA-Europe

Gay Straight Alliance
www.gsa.org.rs

Gayten LGBT, Center for Promotion of LGBTIQ Human Rights
www.transserbia.org

Labris
www.labris.org.rs

Novi Sad Lesbian Organization

Queeria - Center for Promoting Culture of Non-Violence and Equality
www.queeriacentar.org