

A close-up photograph of a person's eye, looking directly at the camera. The eye is green with a black pupil. The eyelids are heavily made up with vibrant rainbow colors: red on the upper lid, yellow on the lower lid, and green and blue on the inner corners. The background is a solid black rectangle.

#ERAREPORT2018

# ERA REGION ANNUAL REPORT 2018

REPORT ON DEVELOPMENTS IN THE  
WESTERN BALKANS AND TURKEY DURING  
2018

MAY 2019 - [WWW.LGBTI-ERA.ORG](http://WWW.LGBTI-ERA.ORG)



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# **ERA Region Annual 2018 Report**

for the Western Balkans and Turkey

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## 1. Introduction and acknowledgements

This report is a summary of developments in the countries of the Western Balkans (Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia, Slovenia) and Turkey from January until December 2018.

This report has been prepared by ERA's executive staff, and has been reviewed and proofread by ERA's member organisations and partners in the region. It covers a comprehensive list of areas: protection from discrimination, hate crime and hate speech, access to justice, family rights, position of trans persons, position of intersex persons, freedom of assembly and expressions, access to health, regional cooperation and dialogue and provides extensive information on the developments as well as concrete recommendations.

A part of this report focuses on ERA's activities for 2018 with an overview of our work, achievements, challenges and upcoming plans.

This regional report and activity was prepared by Amarildo Fecanji, Dragana Todorovic and Vuk Raicevic. It is the result of two month of research and review of reports, research materials, publications, articles and other resources.

We would like to thank for our member organizations in the Western Balkans and Turkey for proofreading, contributing and sharing their materials.

We would like to thank the German Ministry of Foreign Affairs of Germany and Hirschfeld-Eddy Foundation for supporting the publication of this report.

Any error found in this report is the sole responsibility of the ERA team and they do not represent the position of ERA as an organization or our member organisations.

For any inquires, feedback or conversations on this report please send an Email to [office@lgbti-era.org](mailto:office@lgbti-era.org)

## 2. LGBTI definitions

**affirmed gender:** means the gender matches a person's gender identity. For example, if a person is biologically male and identifies as female, their “affirmed gender” is female.

**ally:** usually a non- LGBTI person who supports and stands up for the rights of LGBTI people, usually in the workplace or educational institution.

**asexual:** a person who generally does not feel sexual attraction or desire to any group of people. Asexuality is not the same as celibacy.

**biological sex** means the physical and biological characteristics that define males, females and intersex conditions.

**bisexual:** This word is used in the definition of sexuality in the *Anti-Discrimination Act 1991* . The dictionary meaning of bisexuality is “attraction to both males and females as sexual partners”. Also called “bi”.

**cisgender:** means that a person's biological sex and gender expression are the same. For example, a person expresses herself as female, and is also biologically female.

**coming out:** the process through which a lesbian, gay, bisexual, transgender, questioning, or intersex person comes to recognise and acknowledge, both to self and to others, their sexual orientation, gender identity, or intersex status.

**gay:** a person who is primarily attracted to members of the same sex. Although it can be used for any sex (for example: gay man, gay woman, gay person) “lesbian” is sometimes the preferred term for women who are attracted to women. It is preferable to “homosexual”.

**gender expression:** is the way in which a person communicates their gender identity to others through behaviour, clothing, appearance, voice and other forms of presentation. When someone identifies as trans\*, their biological sex is often not the same as their gender identity or expression.

**gender identity:** means a person's innermost concept of self as male or female — both or neither, how an individual perceives themselves, and what they call themselves.

Note: For the purpose of unlawful discrimination under the *Anti-Discrimination Act* , the definition says:

**gender identity**, in relation to a person, under the Queensland *Anti-Discrimination Act 1991*, means that the person:

- (a) identifies, or has identified, as a member of the opposite sex by living or seeking to live as a member of that sex; or
- (b) is of indeterminate sex and seeks to live as a member of a particular sex.

**gender non-conforming:** having or being perceived to have gender characteristics and/or behaviours that do not conform to traditional or societal expectations. The person may or may

not identify as lesbian, gay, bisexual, transgender, questioning, or intersex. For example, in the case of Norrie, the High Court of Australia unanimously held that the *Births, Deaths and Marriages Registration Act 1995* (NSW) permits the Registrar to register that a person's sex is "non-specific" .

**heterosexual:** This word is used in the definition of sexuality in the *Anti-Discrimination Act 1991*. The dictionary meaning of heterosexuality is "sexual feeling for a person (or persons) of the opposite sex" . Also called "straight" .

**homosexual:** This word is used in the definition of sexuality in the *Anti-Discrimination Act 1991* . The dictionary meaning of homosexuality is "sexual feeling for a person (or persons) of the same sex" . Some people find this term offensive.

**intersex:** Intersex people are born with physical sex characteristics that don't fit medical norms for female or male bodies.

**lesbian:** a woman who is primarily attracted to other women.

**lgb:** lesbian, gay, bisexual.

**lgbtqi:** people who have identified themselves as lesbian, gay, bisexual, transgender, questioning, or intersex.

**queer:** an umbrella term sometimes used by LGBTI people to refer to the entire LGBTI community. It is important to note that the word " queer " is an in-group term, and a word that can be considered offensive to some people, depending on their generation, geographic location, and relationship to the word (because of its historically derogatory use).

**questioning:** those who are unsure of, or exploring and discovering their sexual orientation or gender identity.

**sexual orientation:** a person's emotional, physical, or romantic attractions to another person or people. Note: sexual orientation and gender identity are two different constructs. If a person identifies as transgender, they may also identify their sexual orientation as straight, gay, lesbian, or bisexual.

**sexuality,** under the Queensland *Anti-Discrimination Act 1991* , means: heterosexuality, homosexuality or bisexuality.

**SOGI:** sexual orientation and gender identity.

**SOGII:** sexual orientation, gender identity, and intersex.

**straight:** is sometimes used to refer to a heterosexual person.

**trans:** On these web pages we use the word trans to acknowledge that there are many identities in the gender diversity spectrum. Trans is an umbrella term that includes all identities

within the gender identity spectrum, including (but not limited to) people who identify as transgender, transsexual, genderqueer, gender fluid, non-binary, sistagirl, brotherboy, transman or transwoman.

**transgender** means that a person does not identify with the biological sex they were born with.

**transitioning:** is the process a person goes through when changing their public gender presentation, to match their affirmed gender. A person who is transitioning may dress and live as their preferred gender. They may alter their physical appearance or take hormones. Some, but not all trans people, may choose sex affirmation surgery.



### 3. Executive Summary

**Access to justice** remains challenging and problematic across the entire Western Balkan and Turkey region. While harassment, discrimination and hate crimes are frequent, the law enforcement and justice sector remains largely unprepared to address them. LGBTI people are largely reluctant to report cases of discrimination and violence and when they do they are discouraged by long leucocratic procedures, unfriendly service providers and fear of further outing and stigmatization. Across the region, equality bodies and human rights institutions need to intensify their outreach efforts and become more accessible to LGBTI persons. In many countries LGBTI people do not even know of the existence of such equality bodies or human rights mechanisms. Trans persons are particularly vulnerable to frequent and repeated cases of discrimination and harassment. Data and information on sex workers is still poor across the region and those organisations which do collect information report a dramatic scenario of violence, abuse and persecution from state authorities. In several occasions state institutions and service providers - including here police and border authorities - have been reported to discriminate or abuse LGBTI persons. Across the region law enforcement has been accused of improperly handling of cases of hate crimes against LGBTI persons. While the Criminal Codes of most countries of the region have been adequately reformed to protect LGBTI citizens, the practical implementation of such laws is lagging behind, and it remains one of the most problematic issues that the LGBTI communities faces.

With regards to **protection from discrimination** all countries of the Western Balkans have legislation which offers such protection on grounds of sexual orientation and gender identity (North Macedonia being on its way of introducing such legislation throughout 2019). Kosovo even provides such protection in its Constitution, while Bosnia and Herzegovina and Montenegro have recently changed their legislation to provide protection from discrimination also to intersex persons. Poor reporting of cases of discrimination remains an issue across the region as well as the weak implementation of equality policies and national anti-discrimination strategies. Legal provisions need to be provided for or improved across the entire region, with particular relevance in regards to the intersex community, protection from hate speech and proper sanctioning of perpetrators.

While **hate crime and hate speech** legislation have been introduced in most countries of the region of Western Balkans during the last decade, they are still not adopted in Turkey. In Macedonia, it does not cover sexual orientation and gender identity explicitly, while hate speech legislation in Bosnia and Herzegovina covers sexual orientation and gender identity only in the entity of Republic Srpska<sup>1</sup>. Sex characteristics are not protected in any law dealing with hate crimes. Across the region, hate crime and hate speech legislation still suffers from inadequate implementation and inconsistency, while many hate crime cases against LGBTI persons remain unreported due to fear of stigmatization, secondary victimization and distrust into public institutions, even belief that violence against LGBTI persons is a common occurrence, not recognised by law. Majority of those crimes that do get reported are being inadequately processed by the law enforcement, resulting in verdicts that do not explicitly address hate crime as such. Main obstacles related to hate crimes are still in connection with

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<sup>1</sup> Bosnia and Herzegovina is a state consisting of two entities - the Federation of Bosnia and Herzegovina and the Republic of Srpska, with Brčko district having a special status in the country. All three have legislative power.

ineffective police investigation and inadequate qualifications by the prosecution, with necessity of further education of police, prosecutors and judiciary on the topic. There are no systematic data gathering of hate crimes, which creates serious problems and gaps in documenting and reporting of hate crime incidents. Hate crime and hate speech legislation should be amended across the region to include sex characteristics.

Croatia and Slovenia are the only countries of the region which provide same-sex couple with the right to legally enter in **registered partnerships**. All other countries of the region provide for such rights. Montenegro made significant steps forward with the government finalizing a draft law for same-sex partnerships and toward the end of the Year the government of the Federation of Bosnia and Herzegovina set up a working group with the aim to design a draft law on the matter. Most family codes of the region limit marriage and civil partnerships to opposite sex couples and there is not clear signal from any of them to work on the matter.

The governments of Albania, Bosnia and Herzegovina, Kosovo, North Macedonia and Serbia should all amend their family codes and extend cohabitation rights to same-sex couples. The Partnership Act of Slovenia should extend adoption rights also to same-sex couples.

The overall position of **trans** persons is highly concerning, as they do not fully enjoy equal treatment in societies of the Western Balkans and Turkey. Extensive lack of legal and social authentication and legitimization, structural and societal silencing, intentional exclusion and invisibility of trans persons and topics are some of the biggest challenges. Their rights, access to services and equal treatment are often denied due to their gender identity and expression. They are often victims of hate speech, violence and hate crime. Many trans persons live out of their family environment, in extreme poverty and social exclusion. Discrimination against trans individuals occurs in all spheres of life and their identity remains pathologized. All countries of the region should introduce efficient legal gender recognition procedures and clear guidance for their implementation based on self-determination and in line with international human rights standards. Awareness raising activities should take place across the region to improve perceptions of the public on trans persons. Affirmative health services, policy measures should be introduced and current anti-discrimination legislation should be implemented adequately.

According to recent data, almost all **intersex** people (93%) said that they are never or rarely open about their identity, with only 2% of intersex people reported that they are completely open about being intersex. Intersex persons remain almost completely invisible in all societies of the Western Balkans and Turkey, which is also reflected in the law. With exemption of anti-discrimination legislation of BiH and Montenegro, sex characteristics are not legally recognized and protected in any law in the region of Western Balkans and Turkey, including as a motive for hate crimes. Apart from that, intersex people do not enjoy adequate protection of their bodies' autonomy and integrity, which negatively reflects on their well-being. In addition, there is a strong need to improve their visibility and data about their everyday life, as well as to build sustainable civil society working specifically on intersex rights. Intersex persons still face with derogatory and offensive terminology, such as the term 'hermaphrodite' often being used in public spheres and media. All countries of the Western Balkans and Turkey are required to introduce policy measures and campaigns in order to increase visibility and combat discrimination of intersex people. The law for protection from discrimination should be amended across the region to add sex characteristics as protected grounds.

The overall visibility of LGBTI community and movement continued to grow across the region with Prides taking place in almost all capitals of the region and Pride Week events extending to several cities and regions. **Freedom of assembly** of LGBTI persons however is not equally guaranteed across the region. Bosnia and Herzegovina as well as North Macedonia still have to host Prides in their capitals and Turkish authorities continued to further ban LGBTI events (such as in Ankara) and Istanbul Pride. The Governorate of Ankara needs to stop the absurd banning of LGBTI events on unfounded grounds. Meanwhile state authorities of Bosnia and Herzegovina and North Macedonia need to ensure that Prides will take place in a peaceful manner and that the security of participants will be fully guaranteed.

As of 2018, across the south-eastern European region there is an expanding HIV epidemic among gay and bisexual men which is on the verge of spinning out of control. From 2007 to 2016, the number of new HIV diagnosis has risen over 300% across the region, compared to an average of 13% increase among gay and bisexual men in the European Union. This increase has been noted also across the entire Western Balkans region as well as Turkey. This expanding epidemic requires the countries of the Western Balkans and Turkey to take immediate measures in order to prevent the HIV epidemic among gay and bi men as well as trans persons. Basic prevention interventions should be scaled up across the region and new highly effective prevention tools like PrEP should be introduced urgently. More efforts should be made to strengthen fundamental rights of LGBTI persons. The fact that this community is the only one affected by the epidemic reveals a correlation between discrimination, invisibility and high rates of infections. Countries should increase domestic financing of HIV prevention programs and work closely with community based organizations. The European Union and other donors are also required to step in and provide time-bound bridge funding to protect investments and gains made.

The countries of the Western Balkans region share common challenges when it comes to the legal and social protection of LGBTI communities. In addition, they share also a common path in terms of European Union integration as well as their commitments to protect citizens from discrimination based on their sexual orientation, gender identity and expression as well as sex characteristics. In addition, other mechanisms such as Council of Europe Recommendations 2010(5) provide excellent opportunity for closer engagement and dialogue. As such **regional cooperation** is crucial in order to create and maintain a momentum of positive and systematic change and progress. This dialogue should provide the opportunity for governments to minimize costs, learn from each-others practices, design and implement common initiatives etc. Such cooperation should extend not simply on the legal aspect but to address also many more common challenges such as those affecting the health of LGBTI people, protection from violence, access to services etc. ERA will continue to engage very closely, in cooperation with its member organizations, in order to strengthen this regional cooperation and make it useful to concrete and tangible legal and social changes in the region.

## 4. Access to Justice

In **Albania**, there is still a need to improve access of LGBTI persons to the independent bodies, such as Commissioner for Protection from Discrimination and Ombudsperson. On several cases, they have ruled in favour of LGBTI people. In addition, there is little access to the judicial system for LGBTI persons, as the system is not trained to accept, respect and welcome them. Most community members have difficulties accessing the justice system. The only way to ensure action from the police is to go to the station accompanied by a member of staff of LGBTI CSOs. In the last year CSO Aleanca has reported an increasing number of LGBTI people (especially youth) asking for help to leave Albania and seek asylum in EU countries, US and Canada due to fear of violence and discrimination based on SOGI<sup>2</sup>. The new legislation on free legal aid makes it possible for LGBTI persons to receive free legal aid at any instance, if they fulfil conditions set by the law (level of income). Sex characteristics are not enlisted as protective ground in any law.

LGBTI community in **Bosnia and Herzegovina** (BiH) reports very high number of cases of psychological abuse and verbal harassment by people on the streets who are also the main perpetrators of physical violence. The Institution of the Ombudsperson recorded 8 cases of discrimination based on SOGI in 2015 and 11 in 2014. The cases of discrimination occurred in the services sector, health sector, by border authorities, in the workplace and as a public incitement to discriminate against LGBT persons<sup>3</sup>. In addition, there are still SOGIESC-related differences within the legislative provisions of different entities in the country, which complicates the access to justice to LGBTI individuals.

Despite legislative changes in **Croatia** ensuring improved access to justice to LGBTI individuals, there are still obstacles that they face. Underreporting of cases of violence and discrimination is still present. Prompt and impartial investigation into alleged cases of hate crimes has been carried out with some difficulties, with inconsistent implementation of legal provisions and inadequate processing by the police. Limited measures have been taken by the authorities in order to encourage victims to report SOGI-based hate crimes. Sex characteristics are not enlisted as protective ground in any law.

In **Kosovo**, LGBTI people do face discrimination and violence, but they predominantly do not declare their sexual orientation and/or gender identity and sex characteristics for security reasons. As LGBTI community is one of the most marginalised groups, with high level of invisibility, there is no data regarding violence or discrimination cases. LGBTI individuals who are sex workers exist, but there is no adequate data on their position. There is no proper information on the position of LGBTI individuals who are detained or imprisoned. Thus, there is

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<sup>2</sup> LGBTI Enlargement Review 2018, prepared by ILGA-Europe, in cooperation with ERA – LGBTI Equal Rights Association for Western Balkans and Turkey and others, p. 8: <https://www.lgbti-era.org/sites/default/files/pdfdocs/Annual%20LGBTI%20Enlargement%20Review%202018.pdf>

<sup>3</sup> [Written Contribution to the Report on Legal Gender Recognition of UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity](#), submitted by ERA – LGBTI Equal Rights Association for Western Balkans and Turkey (ERA), PINK Embassy Albania, Streha LGBT (Shelter), Pro LGBT, CEL Kosova, Subversive Front, The Coalition Margins, Association Spectra, Egal, Gayten – LGBT, Legebitra, TransAkcija Institute, Pembe Hayat and SPoD on 19 June 2018, p. 8.

no proper case-law based on SOGI as protective ground. Sex characteristics are not enlisted as protective ground in any law.

In **North Macedonia**, sexual orientation and gender identity and expression are still not explicitly covered in the current version of Anti-discrimination Act and Criminal Code, but amendments on the law covering these personal grounds will most likely be introduced throughout 2019 after the adopting process is finalised. Sex characteristics are not enlisted as protective ground in any law. The Public Prosecutor's Office provides no adequate response to SOGI-based hate speech cases submitted by civil society and if taken into account, finds no violations. Many cases of hate speech from public figures have not been addressed. Criminal investigation in relation to cases of bias motivated crimes on grounds of SOGI is lacking. The Commission for protection from discrimination lacks capacities and will to address discrimination and hate speech, especially concerning LGBTI people. Data collection of hate crimes and hate speech based on SOGI is still a problem. Underreporting is still a big issue, cases of hate crimes are documented by CSOs, but few are willing to report cases to the authorities due to lack of trust and fear of stigmatization<sup>4</sup>.

In **Montenegro**, access to justice for LGBTI people remains very challenging. The Criminal Code of Montenegro covers hate crime based on sexual orientation and gender identity as aggravating circumstance when determining sentence in cases of violence against LGBT people, as well as hate speech. However, since the amendments of this Law were introduced in 2013, not a single case of hate crime or hate speech was categorized as such by the Prosecutor's office. Case-law on protection from discrimination based on SOGI is very limited and does not provide relevant feedback on the court practice in such cases. There are also additional efforts needed to train law enforcement on LGBTI topics.

Cases of violence and discrimination in **Serbia** are not being reported regularly and adequately, due to fear of further stigmatisation, secondary victimisation and discrimination, as well as the opinion that the authorities will not be able to do much to solve the problem. When reported to the authorities, to the police as the first instance, incidents of homo/transphobia occur quite often, if the incident is being reported individually without representatives of CSOs being present. When and if the case reaches judiciary, the processes are very slow and guarantee little or no support to the victims<sup>5</sup>. Case-law on protection from violence and discrimination is poorly developed. Only one case received final verdict as hate crime based on sexual orientation<sup>6</sup>, even though Criminal code of Serbia recognises crimes committed on the grounds of SOGI as aggravating circumstance since 1 January 2013. Serbia is the only country in Europe that still has no Law on free legal aid in place. The law was adopted, but it is expected it will be introduced in the legal system in October 2019. Sex characteristics are not enlisted as protective ground in any law.

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<sup>4</sup> LGBTI Enlargement Review 2018, prepared by ILGA-Europe, in cooperation with ERA – LGBTI Equal Rights Association for Western Balkans and Turkey and others, p. 18-19: <https://www.lgbti-era.org/sites/default/files/pdfdocs/Annual%20LGBTI%20Enlargement%20Review%202018.pdf>

<sup>5</sup> *Ibid*, p. 19.

<sup>6</sup> For more information, please read the following article: <https://www.lgbti-era.org/news/criminal-verdict-hate-crime-reached-first-time-serbia>

In **Slovenia**, access to justice for LGBTI individuals remains challenging. LGBTI CSOs are still looking for ways to bring trainings about LGBTI to the police officers. There are no specialized LGBTI contact points in the country. There is no specific hate crime and hate speech legislation covering SOGIESC as protective grounds, and antidiscrimination case-law is underdeveloped. Police does not collect data regarding violence that has been committed on the basis of sexual orientation, gender identity and expression and sex characteristics. The real number of committed violence and harassment based on SOGIESC is unknown, since most of it stays unreported even to CSOs. Sex characteristics are not enlisted as protective ground in any law.

In **Turkey**, no legislative and other measures have been adopted or implemented to ensure an effective, prompt and impartial investigation and court procedures of the alleged cases of crimes, hate speech or other incidents, where there is reasonable ground to suspect that the victim was targeted due to their SOGIESC. Within the police, there are no units tasked specifically with investigating these incidents, no liaison officers tasked with maintaining contact with LGBTI communities in order to establish a relationship of trust, and no systems of anonymous complaints or online complaints to allow reporting by third parties of the occurrence of such incidents<sup>7</sup>.

## Recommendations

- All countries of the Western Balkans and Turkey region should introduce official measures in order to encourage victims to report cases of discrimination, hate speech and hate crimes based on SOGIESC;
- All countries of the Western Balkans and Turkey region should amend their criminal laws to include sex characteristics as protective ground for protection from hate crimes;
- All countries of the Western Balkans and Turkey region should improve their case-law related to SOGIESC as protective grounds;
- All countries of the Western Balkans and Turkey region should provide trainings on LGBTI issues to law enforcement;
- Albania, Croatia, Kosovo, Macedonia, Serbia and Slovenia should amend their anti-discrimination and criminal laws to include sex characteristics as protective ground;
- North Macedonia and Turkey need to include sexual orientation, gender identity and expression and sex characteristics as protective grounds into their anti-discrimination and criminal laws;
- Albania should strengthen the position of Commissioner for Protection from Discrimination and Ombudsperson and ensure adequate access to LGBTI persons to these institutions;
- Bosnia and Herzegovina has to uniform legal provisions protecting LGBTI persons across its entities and cantons and improve its case-law on protection from discrimination and violence based on SOGIESC;
- Croatia needs to ensure prompt and impartial investigation into alleged cases based on SOGI;
- Kosovo needs to improve its data collection regarding violence and discrimination cases and case-law based on SOGI as protective ground;

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<sup>7</sup> [Report on the Implementation of Committee of Ministers' Recommendation CM/Rec\(2010\)5 on measures to combat discrimination on grounds of sexual orientation or gender identity in Turkey](#), prepared by Kaos GL, SPoD and ERA in September 2018, p. 6

- North Macedonia should strengthen the position of Commission for protection from discrimination and ensure adequate access to LGBTI persons to this institution, as well as adequately respond to discriminatory and hateful acts of public figures;
- Montenegro needs to improve its data collection and case-law on protection from discrimination and violence based on SOGIESC;
- Serbia needs to adopt Law on free legal aid and needs to improve its data collection and case-law on protection from discrimination and violence based on SOGIESC;
- Slovenia should include sexual orientation, gender identity and expression and sex characteristics as protective grounds into its criminal law, improve its data collection and case-law on protection from discrimination and violence based on SOGIESC and introduce specialized LGBTI contact points in the country;
- Turkey needs to introduce legal and policy framework for protection of LGBTI persons, improve its data collection and case-law on protection from discrimination and violence based on SOGIESC, ensure prompt and impartial investigation into alleged cases based on SOGIESC and introduce specialized LGBTI contact points in the country;

## 5. Protection from Discrimination

The Anti-Discrimination Law in **Albania** was approved in 2010, but remains poorly implemented. LGBTI community members don't report cases to authorities due to lack of trust. Sex characteristics are not protected by law. LGBTI organisations are aware of at least two cases of discrimination against HIV positive health workers who were asked to leave their jobs when their status became known, showing a lack of knowledge and high levels of stigma about HIV even among health practitioners<sup>8</sup>. By adopting the LGBTI National Action Plan (2016-2020), Albanian LGBTI citizens benefit from the protection of two National Human Rights Institutions: the People's Advocate (Ombudsman) and the Commissioner for Protection from Discrimination (CPD)<sup>9</sup>. However, the implementation of the plan and the role of CPD suffer serious inconsistencies.

Even though Article 2 of the Constitution of **Bosnia and Herzegovina** (BiH) prohibits discrimination, grounds such as sexual orientation, gender identity and sex characteristics are not included in the exhaustive list of protected categories. The 2003 Law on Gender Equality in BiH expressly prohibits discrimination based on sexual orientation and gender. However, while subsequent articles cover direct and indirect discrimination in the fields of education, employment, social care, health care, sport, culture, public life and media, they do not consistently refer to sexual orientation. The recently amended Law on Protection from Discrimination bans discrimination on the grounds of sexual orientation and gender identity by employing the updated accurate vocabulary. It also prohibits discrimination on the basis of association with a protected group, improves definition of harassment and sexual harassment and introduces victimization as a form of discrimination. In addition, the Law is the first one in the region to prohibit discrimination on basis of sex characteristics, thus providing better protection for intersex persons. However, it does not forbid hate speech based on sexual orientation or gender identity. Article 8 of the Federation of BiH's Labour Law explicitly prohibits discrimination on the grounds of sexual orientation. However, gender identity is not explicitly covered. The Brčko District Labour Law also protects individuals from employment discrimination on the basis of sexual orientation, while gender identity is also not explicitly mentioned. Labour Law of Republika Srpska does not cover sexual orientation and gender identity explicitly as protected grounds of discrimination, but it prohibits discrimination on any characteristic not directly related to the nature of the work. The recently adopted Law on Foreigners of BiH and the new Law on Asylum of BiH failed to recognize sexual orientation and gender identity as grounds for seeking asylum. The Law on Foreigners of BiH also omits the mention of sexual orientation and gender identity, which means omission from the anti-discrimination provision in the Law. The Anti-discrimination action plan published in April 2016

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<sup>8</sup> LGBTI Enlargement Review 2018, prepared by ILGA-Europe, in cooperation with ERA – LGBTI Equal Rights Association for Western Balkans and Turkey and others, p. 9: <https://www.lgbti-era.org/sites/default/files/pdfdocs/Annual%20LGBTI%20Enlargement%20Review%202018.pdf>

<sup>9</sup> [Written Contribution on the position of LGBTI persons to the 3rd Cycle of the Universal Periodic Review of Republic of Albania](#), submitted by ERA – LGBTI Equal Rights Association for Western Balkans and Turkey (ERA), Aleanca, PINK Embassy Albania, Streha LGBT (Shelter) and Pro LGBT, p. 5.



was the first national level policy of its kind to explicitly name LGBT people. However, measures covering LGBTI issues had not been implemented within the envisioned period<sup>10</sup>.

In **Croatia**, the 2008 Anti-Discrimination Law includes sexual orientation, gender identity and gender expression on the list of protected categories against discrimination, including in relation to access to either public and private services, or to access to establishments serving the public. Other anti-discrimination directives that prohibit discrimination based on gender, gender expression, and/or sexual orientation have been included in various pieces of legislation since 2003, including Penal Code, Gender Equality Law, Media Law, Labour Law, Asylum Law etc. Croatian legal framework does not explicitly protect intersex persons, as there are no legal provision granting protection on the basis of sex characteristics.

**Kosovo** is one of the only 10 countries in the world which has banned discrimination on the grounds of sexual orientation in its Constitution (Article 24)<sup>11</sup>. Although there are no laws criminalising LGBTI identities, this cannot be taken to mean that LGBTI people's rights are being effectively protected in Kosovo. Gender Identity is recognised in the anti-discrimination law. Equality measures on LGBTI rights have been difficult to implement in Kosovo despite the existing legislation. For many years since the passing of anti-discrimination law, governments have failed to pass new laws or amend existing ones and policies have not changed fundamentally until 2015. Sex characteristics are not listed as grounds for protection from discrimination. With regards to policy, in 2014 the Kosovo Government, through the Prime Minister's Office for Good Governance set up the Coordinating and Advisory Group for the rights of LGBT community. The aim of this group has been to form partnerships and cooperation between local/national institutions, international community and the LGBTI organisations operating in the country. Government initiative however has been considered weak by the LGBTI movement and observers and no specific actions have been undertaken to significantly change public perceptions towards LGBTI people, despite the preparation of several Action plans.

**North Macedonia** is still facing obstacles in the process of adoption of the new Law on Prevention of and Protection against Discrimination, that would explicitly cover sexual orientation and gender identity as protective grounds, even though the adoption of the new law was part of the reform priorities of the Macedonian Government. Namely, the adoption of the Law on Prevention of and Protection against Discrimination was continuously postponed and blocked in the parliamentary procedure since May 2018, without viable prospects of adoption in the foreseeable future. It faced obstacles at the Parliamentary Committee for Labour and Social Affairs, as a committee responsible for the adoption of this law prior to the adoption by the Parliament<sup>12</sup>. Even though the law was adopted by the Macedonian Parliament in the meantime, it was not signed for approval by the President of North

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<sup>10</sup> [Written Contribution to the Report on Legal Gender Recognition of UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity](#), submitted by ERA – LGBTI Equal Rights Association for Western Balkans and Turkey (ERA), PINK Embassy Albania, Streha LGBT (Shelter), Pro LGBT, CEL Kosova, Subversive Front, The Coalition Margins, Association Spectra, Egal, Gayten – LGBT, Legebitra, TransAkcija Institute, Pembe Hayat and SPoD on 19 June 2018, p. 7-8.

<sup>11</sup> *Ibid*, p. 10.

<sup>12</sup> For more information, read the following article: <https://www.lgbti-era.org/news/law-prevention-and-protection-against-discrimination-continuously-postponed-and-blocked>

Macedonia and therefore is still not part of the legal system of the country. Sex characteristics are not included in this law.

In **Montenegro**, Law on prohibition from discrimination strictly prohibits discrimination on grounds of sexual orientation, gender identity. Montenegro became the second country in the region to explicitly protect intersex persons, through amendments adopted in 2017, that now list “intersex status” as protective ground. Law on gender equality includes protection not only of women and men, but also “people of different gender identities”. The main relevant policy which assess needs of LGBT people in the country is the National Strategy for improvement of life quality of LGBT people 2013-2018, with new strategy being adopted early 2019.

**Serbia** has fifteen laws that contain anti-discrimination provisions within them, including a specialized Law on prohibition from discrimination. However, these legislative and normative frameworks have not been adequately used. Intersex persons are still not protected by the law. The Anti-discrimination law was adopted in 2009 but its implementation remains inadequate. There is no adequate case-law of discrimination against LGBTI persons. The Commissioner for the protection of equality has done very little in 2018 to publicly stand for the human rights of LGBTI people. As such, LGBTI people are reluctant to submit complaints to this office, or the Ombudsperson, preferring to instead report cases only to CSOs<sup>13</sup>. Serbia has a Strategy for Prevention and Protection from Discrimination (2013-2018) and relevant Action Plan for its implementation, adopted by the Government of Serbia in October 2014. Some of the most important measures were to take concrete steps in tackling cases of discrimination against LGBTI individuals and to draft laws on gender identity and same-sex partnership. However, no actions for implementation were taken by the State. Action Plan following Chapter 23 of EU Accession process is also of relevance, but concrete results are still to be expected<sup>14</sup>.

Equality before the law in **Slovenia** based on different personal grounds is enshrined in Article 14 of the Constitution of the Republic of Slovenia. Sexual orientation and gender identity are not explicitly mentioned, however the article contains a phrase “or any other personal grounds”, which also should imply to sexual orientation, gender identity and sex characteristics. In the Protection Against Discrimination Act (enacted in 2016) discrimination based on sexual orientation, gender identity and gender expression is explicitly forbidden. The act is the first legal document in Slovenia explicitly mentioning gender identity and gender expression as protected grounds. Sex characteristics are still not explicitly mentioned as a personal ground of protection in any law or policy.

In **Turkey**, there are no existing legislative and other measures which guarantee protection from discrimination on grounds of sexual orientation, gender identity and expression and sex

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<sup>13</sup> LGBTI Enlargement Review 2018, prepared by ILGA-Europe, in cooperation with ERA – LGBTI Equal Rights Association for Western Balkans and Turkey and others, p. 28: <https://www.lgbti-era.org/sites/default/files/pdfdocs/Annual%20LGBTI%20Enlargement%20Review%202018.pdf>

<sup>14</sup> [Written Contribution to the Report on Legal Gender Recognition of UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity](#), submitted by ERA – LGBTI Equal Rights Association for Western Balkans and Turkey (ERA), PINK Embassy Albania, Streha LGBT (Shelter), Pro LGBT, CEL Kosova, Subversive Front, The Coalition Margins, Association Spectra, Egal, Gayten – LGBT, Legebitra, TransAkcija Institute, Pembe Hayat and SPoD on 19 June 2018, p. 18.

characteristics, and there are no measures in place to redress any such discrimination. No legislative, policy and other measures have been adopted and/or implemented to collect and analyse relevant data on discrimination on grounds of sexual orientation, gender identity and expression and sex characteristics. There are no effective legal remedies for victims of discrimination based on these personal grounds, including sanctions for infringements<sup>15</sup>.

## Recommendations

- Antidiscrimination legislation in Albania should be amended to include sex characteristics as protective ground, while current legal and policy provisions need proper implementation, with strengthened role of Commissioner for protection from discrimination;
- Antidiscrimination legislation in Bosnia and Herzegovina should be amended to sanction hate speech based on sexual orientation or gender identity and expression and include sexual orientation, gender identity and expression and sex characteristics in all antidiscrimination legal provisions in both entities and Brcko District, while current legal provisions need proper implementation;
- Antidiscrimination legislation in Croatia should be amended to include sex characteristics as protective ground and proper implementation of existing provisions needs to be ensured;
- Antidiscrimination legislation in Kosovo should be amended to include sex characteristics as protective ground, proper implementation of existing provisions needs to be ensured, including development of specific policies supporting the protection of LGBTI persons;
- The proper implementation of antidiscrimination legislation and policies in Montenegro needs to be ensured and LGBTI CSOs need to be included in preparation of the new National Strategy for improvement of life quality of LGBT people;
- North Macedonia should complete its reforms of anti-discrimination legislation that include sexual orientation, gender identity and expression, but also to include sex characteristics in future amendments;
- Antidiscrimination legislation in Serbia should be amended to include sex characteristics as protective ground and proper implementation of existing provisions need to be ensured, while LGBTI CSOs needs to be included in preparation of the new Strategy for Prevention and Protection from Discrimination (2019-2025);
- Antidiscrimination legislation in Slovenia should be amended to include sex characteristics as protective ground, proper implementation of existing provisions needs to be ensured, including development of specific policies supporting the protection of LGBTI persons;
- Turkey needs to adopt antidiscrimination legislation that will guarantee protection from discrimination based on sexual orientation, gender identity and expression and sex characteristics;

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<sup>15</sup> For more information please see: [Report on the Implementation of Committee of Ministers' Recommendation CM/Rec\(2010\)5 on measures to combat discrimination on grounds of sexual orientation or gender identity in Turkey](#), prepared by Kaos GL, SPoD and ERA in September 2018.

## 6. Hate crimes and hate speech

In 2013, the Parliament of **Albania** amended the Penal Code to specifically define crimes motivated by SOGI as hate crimes. The same year the Parliament passed a new law prohibiting the dissemination of homophobic information, with a punishment of a fine and potential jail time. Still, Albania has no official data collection on hate crimes<sup>16</sup>. During 2018, CSO Aleanca LGBT has documented 45 cases of physical violence against members of the LGBT community in Albania, with only three of these cases being reported to the police, but none being prosecuted by the police. In one reported case, the police officer requested the victim, a transgender woman, to withdraw the complaint by assuring her that the officer would ensure her safety. Two weeks later, she was attacked by the same perpetrator and hospitalized<sup>17</sup>.

In **Bosnia and Herzegovina** (BiH), hate crime has been defined and incorporated into the Criminal Codes throughout the country. At the moment, only the Criminal Code of Republika Srpska recognizes grounds of sexual orientation and gender identity in its provisions regulating hate speech, while the criminal codes of Federation of BiH and District Brčko only cover race, religion and ethnicity. State actors, such as law enforcement and judiciary are still lacking capacities to ensure implementation.

Even though the situation regarding hate crime legislation in **Croatia** is significantly better (in comparison to other countries in the Western Balkans), where in all cases of hate crimes criminal proceedings are now initiated *ex officio*<sup>18</sup>, underreporting of homophobic and transphobic hate crimes remains a serious concern, while hate crimes are still often wrongfully qualified as misdemeanor acts, with the most unjust consequence of such incorrect qualification by the police being the fact that the misdemeanor procedure prevents the initiation of criminal proceedings (in accordance with the principle *ne bis in idem*). Data on hate crime is systematically collected by the Government's Office for Human Rights and Rights of National Minorities<sup>19</sup>.

In **Kosovo**, hate crime on the grounds of sexual orientation and gender identity has been introduced in the amendment of the new Criminal Code as an aggravating circumstance. However, proper investigation and implementation of the law in cases of such hate crimes remains a challenge for the Kosovo Police and Prosecution. This consequently results in lack of

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<sup>16</sup> [Written Contribution on the position of LGBTI persons to the 3rd Cycle of the Universal Periodic Review of Republic of Albania](#), prepared by ERA in close cooperation with Aleanca, PINK Embassy, Pro LGBT and Streha, 1 October 2018, p. 9.

<sup>17</sup> LGBTI Enlargement Review 2018, prepared by ILGA-Europe, in cooperation with ERA – LGBTI Equal Rights Association for Western Balkans and Turkey and others, p. 8: <https://www.lgbti-era.org/sites/default/files/pdfdocs/Annual%20LGBTI%20Enlargement%20Review%202018.pdf>

<sup>18</sup> Prior to such changes occurring in 2013, the victims had to independently initiate criminal prosecution through private lawsuits and incur costs for legal services, if the criminal offense was not initiated *ex officio* by the law (e.g. cases of threats against LGBTI persons).

<sup>19</sup> [Monitoring Implementation of the Council of Europe Recommendation to the member states on measures to combat discrimination on grounds of sexual orientation or gender identity CM/Rec\(2010\)5: Documentation Report on the Republic of Croatia](#), prepared by Zagreb Pride, 07/2018 p.6, p. 21 - 24: <https://tgeu.org/wp-content/uploads/2018/10/COE-Report-Oct18-croatia .pdf>

verdicts addressing hate crimes against LGBTI people. During the Pride Week in October 2018 several cases of hate speech by political figures were recorded: Political Party “Fjala” held a press conference denouncing the organizing of the Pride march, and calling the government to ban such manifestation in public places. The leader of this party claimed that a workshop on self-defence organised as part of Pride Week was an indication of the fact that LGBTI persons are organizing a terror attack. A member of the leftist Political Party “Levizja Vetevendosje”, Donika Gashi, who is also part of the Ministry of Culture, Youth and Sport, made a statement on her Facebook profile calling LGBTI persons “sick” and “shkije”(a derogatory word used to refer to Serbs). The organizers reacted with a press release to asking for perpetrators to be called to justice<sup>20</sup>.

The Criminal Code of **North Macedonia** still does not explicitly regulate hate speech and hate crime on grounds of sexual orientation and gender identity, though in theory they should be covered under “other grounds”. However, the amendments to the Criminal Code that will provide distinct protection against acts of hatred by explicit mention of sexual orientation and gender identity are in the final process of adoption. In addition, the five acts of hate crime against the LGBTI Support Centre in 2012, 2013 and 2014 have not yet been resolved, despite overwhelming evidence and public promises of representatives of the ruling party. After the cancellation of the “Queer Iftar” event, LGBTI United Tetovo director Bekim Asani’s home address was published in social media and mobilization for burning of his home was started. A photo of Bekim and his mother along with threats to their lives were shared multiple times in a number of social media posts. In June 2018, 11 people were identified as perpetrators of these threats and criminal charges were filed against them on the grounds of threats to the life of a member of marginalized community<sup>21</sup>.

In **Montenegro**, the Criminal Code describes hate crimes based on gender identity as aggravating circumstance when determining sentence in cases of violence against LGBT people, as well as hate speech. However, ever since the amendments to this Law were introduced in 2013, not a single case of hate crime or hate speech was categorized as such by the Prosecutor’s office. Most recent case of violence was towards a trans woman, who was brutally beaten up in the street, near her home, while some of the passengers were supporting the attackers. This happened in September 2017, after Pride March, where she was visible. After she reported the case, police inspector responsible for her case tried to persuade her to drop charges, after the identification of the attacker, which she refused. After the Prosecutor proceeded with the case, there were no more information about it, and the case is still pending<sup>22</sup>.

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<sup>20</sup> LGBTI Enlargement Review 2018, prepared by ILGA-Europe, in cooperation with ERA – LGBTI Equal Rights Association for Western Balkans and Turkey and others, p. 15: <https://www.lgbti-era.org/sites/default/files/pdfdocs/Annual%20LGBTI%20Enlargement%20Review%202018.pdf>

<sup>21</sup> *Ibid*, p. 18-19.

<sup>22</sup> [Written Contribution to the Report on Legal Gender Recognition of UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity](#), submitted by ERA – LGBTI Equal Rights Association for Western Balkans and Turkey (ERA), PINK Embassy Albania, Streha LGBT (Shelter), Pro LGBT, CEL Kosova, Subversive Front, The Coalition Margins, Association Spectra, Egal, Gayten – LGBT, Legebitra, TransAkcija Institute, Pembe Hayat and SPoD on 19 June 2018, p. 15.

Almost six years after the introduction of hate crime provisions, **Serbia** has recently received its first verdict acknowledging hate crime in the case of domestic violence, where a gay man was a victim of violence from his father, whose solely reason of physical and verbal abuse of his son (but also his wife and victim's mother) was the victim's sexual orientation<sup>23</sup>. Between November 2017 and October 2018, CSO Da se zna! recorded 34 cases of hate crime and/or discrimination, including 6 cases of physical attack, threats, economic violence and peer violence. Relevant legislation is usually applied incorrectly by law enforcement, who insists on 'outing' victims, despite the fact that this is not required by law<sup>24</sup>.

**Slovenia** still has no specific hate crime and hate speech legislation. The Criminal Code prohibits public incitement to hatred in article 297. The article has been rarely applied in court procedures. Hate speech is regulated by the Slovenian constitution. Article 63 states that "any incitement to national, racial, religious, or other discrimination, and the inflaming of national, racial, religious, or other hatred and intolerance are unconstitutional." There are no official statistics by police on hate crimes related to gender identity, gender expression, sex characteristics or sexual orientation. The police only records crimes initiated by hate, but it does not differentiate between different personal grounds on which the hatred is based. Most cases of homophobic and/or transphobic violence remain unreported. There is also no official data on hate crimes and hate speech.

In **Turkey**, hate speech, as well as threats and attacks against the physical integrity of LGBTI people and organizations is widespread. Turkey continues to rank 1<sup>st</sup> in Europe and 9<sup>th</sup> in the world when it comes to transphobic hate murders. Despite that, there is no specific legislation to address bias motivated hate crime and hate speech in Turkey, allowing such attacks to continue with impunity. On 23 May 2018, the Constitutional Court of Turkey evaluated Kaos GL's application about a news item published in habervaktim.com in 2012, including hate speech against the association. The Court ruled that such expressions are not considered hate speech, but rather constitute freedom of expression. Additionally, the Court did not evaluate Kaos GL's claim relating to a violation of the prohibition of discrimination and equality principle. Office of the Istanbul based LGBTI organization SPoD was attacked, and the same organization was targeted by pro-government media before and after the attack, urging the government to close this and other organizations<sup>25</sup>.

## Recommendations

- Hate crime and hate speech legislation in Albania should be amended to include sex characteristics as protective ground and proper implementation of existing provisions needs to be ensured, while official data collection on hate crimes should be introduced;
- Hate crime and hate speech legislation across Bosnia and Herzegovina should be amended to include sex characteristics as protective ground, hate speech legislation in FBiH and Brcko

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<sup>23</sup> More details available here: <https://www.lgbti-era.org/news/criminal-verdict-hate-crime-reached-first-time-serbia>

<sup>24</sup> LGBTI Enlargement Review 2018, prepared by ILGA-Europe, in cooperation with ERA – LGBTI Equal Rights Association for Western Balkans and Turkey and others, p. 27: <https://www.lgbti-era.org/sites/default/files/pdfdocs/Annual%20LGBTI%20Enlargement%20Review%202018.pdf>

<sup>25</sup> *Ibid*, p. 31-32.

district should be amended to also include sexual orientation and gender identity as protective ground, with ensuring proper implementation of existing provisions and introduction of official data collection on hate crimes;

- Hate crime and hate speech legislation in Croatia should be amended to include sex characteristics as protective ground and proper implementation of existing provisions needs to be ensured;
- Hate crime and hate speech legislation in Kosovo should be amended to include sex characteristics as protective ground and proper implementation of existing provisions needs to be ensured, while official data collection on hate crimes should be introduced;
- Process of amending of the Criminal Code of North Macedonia which explicitly regulate protection from hate speech and hate crime based on grounds of sexual orientation, gender identity and expression and sex characteristics should be completed, while sex characteristics should be introduced in future amendments;
- Hate crime and hate speech legislation in Montenegro should be amended to include sex characteristics as protective ground and proper implementation of existing provisions needs to be ensured, while official data collection on hate crimes should be introduced;
- Hate crime and hate speech legislation in Serbia should be amended to include sex characteristics as protective ground and proper implementation of existing provisions needs to be ensured, while official data collection on hate crimes should be introduced;
- The Criminal Code of Slovenia needs to be amended to explicitly regulate protection from hate speech and hate crime based on grounds of sexual orientation, gender identity and expression and sex characteristics;
- The Criminal Code of Turkey needs to be amended to explicitly regulate protection from hate speech and hate crime based on grounds of sexual orientation, gender identity and expression and sex characteristics;

## 7. Family rights

Same-sex couples in **Albania** cannot be legally married or enter into any other form of legally recognized same-sex partnership. The Albanian Constitution stipulates that “any person has the right to marriage” without defining it as a union between a man and a woman. However, the Albanian Family Code does so, and the Cohabitation Law recognizes only opposite-sex partnerships. The Government of Albania has not taken a stance on this matter and there is currently no draft-law, amendment or any other document being taken into consideration by the Albanian Parliament. The People’s Advocate submitted a draft-law to Parliament in 2013 recommending to change the Family Code and allow same sex couples to benefit from the current cohabitation law.<sup>26</sup> However, no Parliament has taken the proposed amendments into consideration so far. A setback was recorded in the summer of 2016 when the Albanian Parliament was in the midst of a constitutional reform. An attempt to include sexual orientation and gender identity as grounds for protection from discrimination, under article 18, was removed last minute following threats of opposition and anti-LGBT politicians to veto the entire reform process.<sup>27</sup> LGBTI organisations in the country, in the last few years, have decided to pursue the matter through strategic litigation. They still have to file a complaint to the Administrative Court, however they argue that litigation is the only option in light of complete silence from the Albanian government and no serious attempts from Parliament to change the Family Code. As of 2018 no significant change has happened, while LGBTI organisations have often criticized the inaction of the government on this matter.<sup>28</sup>

While the Constitution of **Bosnia and Herzegovina** has no say on gender eligibility concerning marriage, the Family Codes of both Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska limit marriage only to opposite-sex couples.<sup>29</sup> An important step forward was recorded on October 2018, when the Federation of Bosnia and Herzegovina entity government adopted a request for the legalisation of same-sex marriage. The item was included in the government session agenda and was adopted in the same form as it was proposed. Later on the Ministry of Justice of the FBiH declared that they will form an inter-ministerial working group which will analyse the regulations which would allow same sex couples to realise their rights.<sup>30</sup>

Same-sex couples in **Croatia** have benefited from a law on same-sex unions since 2003. That law granted same-sex partners, who had been cohabiting for at least 3 years, similar rights as enjoyed by unmarried cohabiting opposite-sex partners, in terms of inheritance and financial support, but not the right to adopt or any other rights included in family law.<sup>31</sup> By September 2014, Croatia put into effect the Life Partnership Act, which makes life partners equal to

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<sup>26</sup> <http://top-channel.tv/2013/10/26/totozani-te-lejohen-martesat-gej/>

<sup>27</sup> <https://www.lgbti-era.org/news/albanian-governing-coalition-sacrifices-lgbti-rights-and-succumbs-pressure-religious-community>

<sup>28</sup> [https://en.wikipedia.org/wiki/Recognition\\_of\\_same-sex\\_unions\\_in\\_Albania](https://en.wikipedia.org/wiki/Recognition_of_same-sex_unions_in_Albania)

<sup>29</sup> [https://lib.ohchr.org/HRBodies/UPR/Documents/Session7/BA/JS\\_UPR\\_BIH\\_S07\\_2010\\_JointSubmission.pdf](https://lib.ohchr.org/HRBodies/UPR/Documents/Session7/BA/JS_UPR_BIH_S07_2010_JointSubmission.pdf)

<sup>30</sup> <http://ba.n1info.com/English/NEWS/a292110/FBiH-adopts-request-for-legalisation-of-same-sex-marriages.html>

<sup>31</sup> [https://narodne-novine.nn.hr/clanci/sluzbeni/2003\\_07\\_116\\_1584.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2003_07_116_1584.html)



married partners in all areas apart from adoption.<sup>32</sup> In November 2017, the Ministry of Family, Youth and Social Policy included life partners in the draft which would change the Croatian family law to give couples access to social welfare benefits.<sup>33</sup> However, such hard-won rights have frequently been under threat in Croatia, in their preparation process and also after being passed, due to active opposition from conservative parties and the very influential Catholic Church, the most notable of these being the marriage referendum of December 2013. In May 2018, the Social Democratic Party launched an initiative to amend the Constitution to prevent future referendums designed with “reducing fundamental civil rights and freedoms”.<sup>34</sup> In 2018 the government of Croatia, ratified the Istanbul Convention, amid fierce opposition of the Catholic Church which argued that due to the Convention’s definition of gender as “a social construct and fluid” it would pave the way for full legalisation of same-sex marriage.<sup>35</sup> In November 2018, it was reported that a total of 262 same-sex couples have registered as life partners in Croatia.<sup>36</sup>

Same-sex couples in **Kosovo** cannot get legally married. In an opinion expressed by the President of the Constitutional Court in 2014, the Constitution allows *de jure* same sex marriage. However, Article 14 of the Law on Family defines marriage as a “legally registered community of two persons of different sexes”. LGBT activists have argued that this law contradicts the wording of the Constitution and are considering to challenge this law in Court.<sup>37</sup>

There is no legal recognition of same-sex couples in **North Macedonia** and the family law defines marriage as a union between a man and a woman.<sup>38</sup> To make such rights even harder to reach, the former conservative government of Macedonia pushed for a change in the Constitution that would define marriage as a union between a man and a woman. In January 2015 Macedonian lawmakers voted in favor of this amendment.<sup>39</sup> Thanks to the recent changes in government, the LGBTI movement has finally been able to establish cooperation and dialogue with the government and Parliament. However, discussing legal changes as related to marriage or civil partnerships is still seen challenging in Macedonia, as the country still has to amend its anti-discrimination legislation to include sexual orientation and gender identity and important changes need to be done also to the Criminal Code and other laws.

Article 71 of the Constitution of **Montenegro** stipulates that “marriage may be entered into only on the basis of a free consent of a woman and a man.”<sup>40</sup> Initial discussions on granting same-sex couples some legal recognition took place in November 2012 when then Deputy

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[https://uprava.gov.hr/UserDocsImages/Savjetovanja%20sa%20zainteresiranom%20javnošću/2013/zivotno\\_partne\\_rstvo/Nacrt%20zakona%20o%20životnom%20partnerstvu%20-%202017%2010.pdf](https://uprava.gov.hr/UserDocsImages/Savjetovanja%20sa%20zainteresiranom%20javnošću/2013/zivotno_partne_rstvo/Nacrt%20zakona%20o%20životnom%20partnerstvu%20-%202017%2010.pdf)

<sup>33</sup> <http://lgbti.ba/prijedlog-zakona-o-socijalnoj-skrbi-u-hrvatskoj-ukljucivat-ce-i-zivotne-partnere/>

<sup>34</sup> <https://www.total-croatia-news.com/politics/28454-sdp-proposes-new-referendum-rules>

<sup>35</sup> <https://www.dw.com/en/croatia-ratifies-convention-on-womens-rights-despite-protests/a-43376424>

<sup>36</sup> <https://amp.france24.com/en/20181211-croatian-activists-challenge-law-barring-gay-couples-fostering-children?>

<sup>37</sup> <https://www.balkaninsight.com/en/article/kosovo-s-same-sex-marriage-laws-shrouded-in-ambiguity-07-03-2017>

<sup>38</sup> <https://www.uvmk.gov.mk/files/zakoni/zakon%20za%20semejstvo.pdf>

<sup>39</sup> <https://www.washingtonblade.com/2015/01/21/macedonian-lawmakers-approve-sex-marriage-ban/>

<sup>40</sup> <https://www.wipo.int/edocs/lexdocs/laws/en/me/me004en.pdf>

Prime Minister Duško Marković presented the idea of a draft bill on the matter. Concrete action in this direction was taken in 2017 when the Ministry of Human and Minority rights established a working group in cooperation with LGBTI CSOs to prepare a draft bill to legalise same-sex partnerships. Under this bill, same-sex couples will be able to register their relationship and have some of the rights, benefits and responsibilities of marriage. This would not include adoption and fostering rights. The Serbian Orthodox Church in Montenegro and the pro-Russian Democratic Front have openly objected the draft law arguing that “it would wreck family life and Christian values in Montenegro”.<sup>41</sup> The draft law has still not been discussed and voted for in Parliament.

Article 62 of the Constitution of **Serbia** was amended in 2006 in order to explicitly define marriage as “a union between a man and a woman”.<sup>42</sup> Concrete steps to provide some legal rights to same sex couples were taken in 2013 when it was announced that by June of that year the Serbian Parliament would receive a draft-law on same-sex partnership which would allow same-sex couples hospital visits and pension inheritance. It was not clear, however, whether this would be in the form of unregistered cohabitation or registered partnership.<sup>43</sup> There were no follow-up developments on the matter. So far, representatives of several parties have expressed support for same-sex marriage and/or adoption. The appointment of openly gay Ana Brnabic as Prime Minister of Serbia prompted some initial hopes for the LGBTI CSO’s only to be squashed soon thereafter, following the latter’s controversial statements on LGBTI rights. So far Brnabic has made no statements that her government aims to push for any changes in the law regarding same-sex partnerships. During 2018, organisations have actively campaigned for legal recognition of same-sex couples, however, so far no concrete changes are in sight.

Since February 2017, same-sex couples in **Slovenia**, can enter partnerships which provide them with all the legal rights of marriage, except for joint adoption and in-vitro fertilisation.<sup>44</sup>

Same-sex couples in **Turkey** have no family rights, whether that is marriage, civil-unions or other forms of domestic partnerships. 2018 was another challenging year for LGBTI movement and community in Turkey with more crucial and fundamental rights being at risk such as freedom of assembly and expression, protection from discrimination, hate speech and hate crimes etc.

## Recommendations

- The Government of Albania and Parliament of Albania should amend the Family Code and to extend cohabitation rights to same-sex couples;

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<sup>41</sup> <http://www.balkaninsight.com/en/article/recognition-of-same-sex-unions-causes-controversy-in-montenegro-04-25-2018>

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[https://web.archive.org/web/20101127021637/http://www.parlament.gov.rs/content/eng/akta/ustav/ustav\\_ceo.asp](https://web.archive.org/web/20101127021637/http://www.parlament.gov.rs/content/eng/akta/ustav/ustav_ceo.asp)

<sup>43</sup> <http://www.balkaninsight.com/en/article/serbia-to-regulate-status-of-same-sex-partners>

<sup>44</sup> <http://www.dz->

[rs.si/wps/portal/Home/deloDZ/zakonodaja/izbranZakonAkt?uid=C1257A70003EE6A1C1257F22004908EB&db=kon\\_zak&mandat=VII](rs.si/wps/portal/Home/deloDZ/zakonodaja/izbranZakonAkt?uid=C1257A70003EE6A1C1257F22004908EB&db=kon_zak&mandat=VII)

- Both entities of Bosnia and Herzegovina, FBiH and Republika Srpska should adopt legal changes which would allow same-sex couples to enter registered partnerships;
- The Constitutional Court of Kosovo needs to propose amendments to the Constitution so as to ensure that they do not infringe upon civil rights previously guaranteed. The Government and Parliament of Kosovo should amend the Law on Family so as to extend family rights to same-sex couples;
- Parliament of Montenegro should pass the draft law on registered partnership and the law should be implemented adequately;
- The Serbian government should re-introduce to Parliament a draft law on same-sex partnerships or civil unions;
- The Partnership Act of Slovenia should extend adoption rights also to same-sex couples;

## 8. Position of trans persons

The overall position of trans and non-binary persons is highly concerning, as they do not fully enjoy equal treatment in societies of the Western Balkans and Turkey. Extensive lack of legal and social authentication and legitimization, structural and societal silencing, intentional exclusion and invisibility of trans and non-binary persons and topics are some of the biggest challenges<sup>45</sup>. Their rights, access to services and equal treatment are often denied due to their gender identity and expression. They are often victims of hate speech, violence and hate crime. Many trans persons live out of their family environment, in extreme poverty and social exclusion. Discrimination against trans and non-binary individuals occurs in all spheres of life and their identity remains pathologized. According to recent data, almost two-thirds of trans people (65%) said that they are never or rarely open about their identity, with only 11% of trans people reported that they are completely open about their gender identity, while 80% of trans respondents reported a personal experience with discrimination based on gender identity and 75% reported this experience based on gender expression<sup>46</sup>. Most countries of the Western Balkans and Turkey have no provisions related to legal gender recognition or other laws exclusively applicable to trans individuals which are fully in line with international standards, despite clear recommendations from various international bodies to adopt them. Forced sterilization procedures are still ongoing, breaching international obligations addressing the need of ending such treatments<sup>47</sup>. Trans individuals face obstacles in accessing their personal documents, as they are negatively impacted by the fact that their personal data (such as name and gender marker) are not reflected in official documents in a way that recognizes their gender identity, leading to serious complications in daily activities such as applying for a job, getting a bank loan or boarding a plane. Trans-specific health services either remain unavailable for most of trans persons in the Western Balkans and Turkey or their quality is questionable. Reports to CSOs suggest that the approach to trans persons by the psychiatrists and clinical psychologists is frequently demeaning, intrusive, offensive and/or based on stereotypes. Lack of psychosocial support strongly affects the well-being of trans individuals and their specific needs, which should be acknowledged and considered. Due to that, as well as bullying and violence, many trans individuals are not attending or even enrolling into school/university and rather stay at home, not gaining any knowledge, despite the awareness of important consequences that come from not accessing education. There is a serious lack of visibility of elderly trans and intersex individuals. With exemption of Turkey, trans persons have access to justice by law and can ask for protection against violence and discrimination in most

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<sup>45</sup> Detailed information about every country is available in the [Written Contribution to the Report on Legal Gender Recognition of UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity](#), submitted by ERA – LGBTI Equal Rights Association for Western Balkans and Turkey (ERA), PINK Embassy Albania, Streha LGBT (Shelter), Pro LGBT, CEL Kosova, Subversive Front, The Coalition Margins, Association Spectra, Egal, Gayten – LGBT, Legebitra, TransAkcija Institute, Pembe Hayat and SPoD on 19 June 2018.

<sup>46</sup> The more detailed data can be found in [Life on the margins: Survey Results of the experiences of LGBTI people in Southeastern Europe](#), published in September 2018 by World Bank in cooperation with ERA, IPSOS and the Williams Institute, which was conducted to better understand the lives of LGBTI people in Albania, Bosnia and Herzegovina, Kosovo, FYR Macedonia, Montenegro, Croatia and Slovenia.

<sup>47</sup> See European Court of Human Rights judgement in the [case A.P. Garçon and Nicot v. France](#).

countries<sup>48</sup>. However, they do encounter difficulties, as there is high level of transphobia present in general society, among law enforcement, as well as within the LGB+ community, while investigation and prosecution of hate crimes is inadequate.

In **Albania**, trans people do not enjoy the right to change their identity that is different from the gender assigned at birth<sup>49</sup>. Trans people have access to the independent bodies such as Commissioner for Protection from Discrimination and Ombudsperson. On several cases, they have ruled in favour of trans people. However, there is little access to the justice system for trans persons as the system is not trained to accept, respect and welcome them<sup>50</sup>.

In **Bosnia and Herzegovina**, there are no legal provisions that would enable state funded health care for the needs of trans people. Lack of medical expertise on gender reassignment remains a major concern in the country. According to Law on personal name of Bosnia and Herzegovina, names can be changed at any time, and any name can be chosen. However, in practice, the registries require from trans persons to choose a gender neutral name and trans individuals can only change the sex marker in their official documents after they have completed full medical transition - genital affirming surgery, which includes sterilisation<sup>51</sup>.

In **Croatia**, legal gender recognition process is regulated by law, but remains inadequate, complicated and lengthy, while the bodies responsible for its implementation have no clear guidance on implementation or they seemed to be ignoring prescribed timelines. There are no legal provisions for any gender options except male and female. Birth certificates may be legally amended to recognise the change and the undertaking of gender affirming surgery no longer has to be stated on an individual's birth certificate, thus ensuring that such information remains private. This is also the case for people who have not formally undergone gender affirming surgery, but have nevertheless undertaken hormone replacement therapy<sup>52</sup>.

In **Kosovo**, trans people do not enjoy the right to change their identity that is different from the gender assigned at birth<sup>53</sup>. They face discrimination and violence, but they do not declare their gender identity for security reasons. As trans community is one of the most marginalised groups, with high level of invisibility, there is no data regarding violence or discrimination cases<sup>54</sup>. On 4 April 2018, a trans person filed an official Request to change the name and gender marker in the Civil Status Registry at the Civil Status Office at municipality of Gjakova, Kosovo. The Request had two requirements: to change the name from typically female to typically male and to change the gender marker from female to male (F to M). The request argued that the name and the gender marker in the Civil Status Registry has to be changed

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<sup>48</sup> In case of Macedonia, gender identity is not explicitly protected by law.

<sup>49</sup> [Written Contribution to the Report on Legal Gender Recognition of UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity](#), submitted by ERA – LGBTI Equal Rights Association for Western Balkans and Turkey (ERA), PINK Embassy Albania, Streha LGBT (Shelter), Pro LGBT, CEL Kosova, Subversive Front, The Coalition Margins, Association Spectra, Egal, Gayten – LGBT, Legebitra, TransAkcija Institute, Pembe Hayat and SPoD on 19 June 2018, p. 5.

<sup>50</sup> *Ibid*, p. 6.

<sup>51</sup> *Ibid*, p. 8.

<sup>52</sup> *Ibid*, p. 10.

<sup>53</sup> *Ibid*, p. 11.

<sup>54</sup> *Ibid*, p. 11.

because the submitter identifies and lives as a man, while his identification documents contain a gender marker that does not comply with his gender identity. The request on changing personal documents was denied from the Civil Status Office<sup>55</sup>.

**North Macedonia** has no legal measures for reassigned gender recognition at all. As a consequence, there are serious legal gaps related to everyday life. They are not able to legally change the documents according to their gender. According to local CSOs, only three trans individuals have managed to change their personal documents fully so far (name, sex marker and personal number)<sup>56</sup>. Trans persons in Macedonia are usually victims of violence in public places and verbal, physical, structural and psychological violence they are facing is part of their everyday lives<sup>57</sup>.

In **Montenegro**, trans persons face obstacles in access to personal documents and the denial of first name change to one trans woman has shown clear violation of the Law on personal name by Ministry of Internal Affairs. After advocacy made by CSO Spectra, in cooperation with CSO Queer Montenegro, Ombudsperson established discrimination by the state and provided recommendations for Ministry, which still were not implemented<sup>58</sup>. Not a single case of hate crime or hate speech was categorized as such by the Prosecutor's office, with most recent case of violence being towards a trans woman, who was brutally beaten up in the street<sup>59</sup>.

**Serbia** has no specialized law regulating legal gender recognition, while the recently amended Law on registry books provides a procedure that no longer requires forced sterilisation, but still insists on provision of hormonal therapy and psychiatric evaluation in order to have the change in personal documents. People of different gender identities in Serbia (as well as of different sexual orientation) are subject to discrimination and violence, including physical violence, threats and cyber bullying. It is also unfortunate that young trans people, after parents and their family members learn about their gender identity, are often rejected by the family, which is why they are forced to leave their homes. Poverty affects almost every trans individual in Serbia (due to the limited access to job market), including older trans individuals as well. If married and with children, before changing legal documents, trans persons have to divorce, or it is done automatically, since same-sex partnership/marriage is not available in Serbia<sup>60</sup>. Hence, parental rights are also questionable.

In **Slovenia**, gender is legally recognised by changing their gender marker in the register. The law provides no clear guidance as to the criteria to be taken into consideration. The majority of persons seeking legal gender recognition obtained the certified statement from a psychiatrist that diagnosed them with gender dysphoria (F64). Undergoing any compulsory sterilisation

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<sup>55</sup> *Ibid*, p. 12.

<sup>56</sup> *Ibid*, p. 11.

<sup>57</sup> *Ibid*, p. 13.

<sup>58</sup> *Ibid*, p. 15.

<sup>59</sup> See section on hate crimes and hate speech, p. 15

<sup>60</sup> [Written Contribution to the Report on Legal Gender Recognition of UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity](#), submitted by ERA – LGBTI Equal Rights Association for Western Balkans and Turkey (ERA), PINK Embassy Albania, Streha LGBT (Shelter), Pro LGBT, CEL Kosova, Subversive Front, The Coalition Margins, Association Spectra, Egal, Gayten – LGBT, Legebitra, TransAkcija Institute, Pembe Hayat and SPoD on 19 June 2018, p. 17.

procedures is not explicitly required, but majority of persons obtained a certified statement from their psychiatrist after starting hormone treatment and proving to the psychiatrist that they have been living in their actual gender for a period up to a year or more. The majority of persons seeking legal gender recognition also apply for a name change under the Personal Name Act. This procedure is separate from the procedure for obtaining a new gender marker and does not require any medical certificate. A larger issue in Slovenia is the quality of health services, especially trans-specific services. There is only one interdisciplinary team for medical gender confirmation, with one of two psychiatrists in Slovenia being a gatekeeper when it comes to accessing hormones, surgeries or any other trans-specific medical procedures. There is a high level of transphobia present in general society, as well as within the LGB+ community. Apart from work of CSOs, there are more or less no resources that include trans people in any social, educational, legal or other systems. Many trans individuals are not attending or even enrolling into school/university and rather staying at home and not gaining any knowledge, as this is safer for them and better for their mental health, even if they are aware of important consequences that come with not accessing education<sup>61</sup>.

**Turkey** continues to rank 1st in Europe and 9th in the world when it comes to transphobic hate murders. Sexual orientation and gender identity are still not recognised under Turkish law. Article 40 of the Civil Code of Turkey also recognises rights associated with the gender transition process, but pathologizes trans identities, asking for medical transition approved by a court as well as a state hospital. In March 2018, the Constitutional Court of Turkey has decided to eliminate sterilisation as mandatory, but in the field, it is seen that this requirement is still valid. A trans person who goes through gender reassignment surgery and has a granted court verdict on legal gender change, enjoys changing their legal documents except for birth certificate. Although trans identities are not criminalised, arbitrary rule and use of power by law enforcement officers continue criminalising trans people. The fear of stigmatisation in access to healthcare and the non-conformity of legal names on the ID and gender-specific names are causing difficulties in access to health. According to local CSOs, the transphobic attitudes and insensitivity of law enforcement officers, judges, and lawyers, helplessness, and increased violations of rights cause serious difficulties for trans individuals to access justice. The number of trans individuals who left their education at universities because of stigmatisation, discrimination and exposure to hate speech is quite large. Neither the private sector nor the state have enough support for the employment of trans individuals in Turkey<sup>62</sup>.

## Recommendations

- All countries of the Western Balkans and Turkey region should introduce efficient legal gender recognition procedures and clear guidance for their implementation based on person's self-determination and in line with international standards;
- All countries of the Western Balkans and Turkey region should introduce policy measures and public campaigns to increase the visibility of trans community and combat stigmatization of trans people and transphobia;
- All countries of the Western Balkans and Turkey region should introduce trans affirmative healthcare services;

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<sup>61</sup> *Ibid*, p. 22-23.

<sup>62</sup> *Ibid*, p. 23-25.

- All countries of the Western Balkans and Turkey region should introduce policy measures and public campaigns to combat transphobia in educational system and on the internet;
- Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia need to ensure proper implementation of antidiscrimination legislative provisions guaranteeing protection from discrimination based on gender identity and/or expression;
- Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro and Serbia need to ensure proper implementation of legislative provisions on protection from hate crimes based on gender identity;
- Slovenia needs to explicitly include gender identity as personal ground for protection from hate crimes;
- Turkey needs to adopt antidiscrimination and criminal provisions that will protect trans individuals from discrimination, hate speech and hate crimes;



## 9. Position of intersex persons

According to recent data, almost all intersex people (93%) said that they are never or rarely open about their identity, with only 2% of intersex people reported that they are completely open about being intersex<sup>63</sup>. Intersex persons remain almost completely invisible in all societies of the Western Balkans and Turkey, which is also reflected in the law. With exemption of anti-discrimination legislation of BiH and Montenegro<sup>64</sup>, sex characteristics are not legally recognized and protected in any law in the region of Western Balkans and Turkey, including as a motive for hate crimes. Apart from that, intersex people do not enjoy adequate protection of their bodies' autonomy and integrity, which negatively reflects on their well-being. In addition, there is a strong need to improve their visibility and data about their everyday life, as well as to build sustainable civil society working specifically on intersex rights. Intersex persons still face with derogatory and offensive terminology, such as the term 'hermaphrodite' often being used in public spheres and media.

The visibility of intersex campaigns is lower than other LGBTI campaigns. Societies remain largely unaware of the painful personal stories of intersex people and the human rights violations they face. Parents of intersex babies are often ill-informed and baffled, while medical professionals propose 'corrective' surgeries and treatments aimed at 'normalizing' the sex of the child, which are cosmetic rather than medically necessary, resulting in irreversible sex assignment and sterilization. Performed without the full informed consent of the parents and, even more importantly, without the consent of intersex persons themselves, these are often traumatizing and humiliating, with common long time and post-operative complications, putting at risk that the sex assigned to children at an early age may not correspond with their identity and feelings later in their lives<sup>65</sup>. Across the region of Western Balkans and Turkey, there is a lack of medical protocols, expertise, multidisciplinary teams and data gathering related to intersex conditions.

In **Albania**, there are no provisions that specifically address the human rights of intersex people. Sex characteristics are not listed as possible grounds of discrimination. State institutions and stakeholders still do not recognize intersex persons at any level in the system and there is a total lack of services for intersex people<sup>66</sup>.

**Bosnia and Herzegovina** became the first country in the region to adopt amendments to the anti-discrimination law to include sex characteristics, but the implementation of this provision is still to be proven in practice<sup>67</sup>. However, intersex persons remain invisible in society.

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<sup>63</sup> The more detailed data can be found in [Life on the margins: Survey Results of the experiences of LGBTI people in South-eastern Europe](#), published in September 2018 by World Bank in cooperation with ERA, IPSOS and the Williams Institute, which was conducted to better understand the lives of LGBTI people in Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, Croatia and Slovenia.

<sup>64</sup> In BiH, sex characteristics are protected under that term, while in Montenegro the law uses the term 'intersex status'.

<sup>65</sup> More details about intersex persons is available in [Intersex Research Study - Albania, BiH, Macedonia, Serbia 2017](#), published in 2018 by UNDP.

<sup>66</sup> [Intersex Research Study - Albania, BiH, Macedonia, Serbia 2017](#), published in 2018 by UNDP, p. 30.

<sup>67</sup> *Ibid*, p. 33.

In **Kosovo**, there are also no provisions that specifically address the human rights of intersex people. Sex characteristics are not listed as possible grounds of discrimination. State institutions and stakeholders still do not recognize intersex persons at any level in the system and there is a total lack of services for intersex people.

Implementation of legal provisions and intersex visibility are also lacking in **Montenegro**, which recognised 'intersex status' as ground of discrimination through legal amendments in 2017. Intersex persons are not properly visible within Croatian society and they are not protected from discrimination, while sex characteristics are not mentioned or recognized in any existing legislation or public policy in **Croatia**<sup>68</sup>.

They are not visible and they are not recognized in society of **North Macedonia** - like sexual orientation and gender identity, sex characteristics are also not explicitly mentioned in the country's anti-discrimination legislation<sup>69</sup>.

In **Serbia**, intersex persons are invisible socially and legally. There is a lack of medical experts, existing expertise and established protocols on intersex conditions and health. Media use the derogatory term *hermaphrodite*. There are no laws, bylaws and procedures in Serbia specifically regulating the position of intersex persons, including protection from hate crimes and discrimination<sup>70</sup>.

There is no specific legal coverage or legal protection for intersex persons within legislation of **Slovenia**. Many intersex persons have never heard of the term intersex before, but all had in common experiences of not having access to their medical records, involuntary surgeries, not understanding the course of their body's development and total silencing from their families.

**Turkey** has no provisions which specifically address the human rights of intersex people. Sex characteristics are not listed as protective ground in any law. State institutions and stakeholders still do not recognize intersex persons at any level in the system and there is a total lack of services for intersex people.

## Recommendations

- All countries of the Western Balkans and Turkey region need to introduce policy measures and campaigns in order to increase the visibility and combat stigmatization of intersex people and provide specific services for protection and well-being for them and their families, including adequate medical, psychological and social support;

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<sup>68</sup> [Monitoring Implementation of the Council of Europe Recommendation to the member states on measures to combat discrimination on grounds of sexual orientation or gender identity CM/Rec\(2010\)5: Documentation Report on the Republic of Croatia](https://tgeu.org/wp-content/uploads/2018/10/COE-Report-Oct18-croatia.pdf), prepared by Zagreb Pride, 07/2018, p. 5. [https://tgeu.org/wp-content/uploads/2018/10/COE-Report-Oct18-croatia .pdf](https://tgeu.org/wp-content/uploads/2018/10/COE-Report-Oct18-croatia.pdf)

<sup>69</sup> [Intersex Research Study - Albania, BiH, Macedonia, Serbia 2017](#), published in 2018 by UNDP, p. 36.

<sup>70</sup> More details available in [Intersex Research Study - Albania, BiH, Macedonia, Serbia 2017](#), published in 2018 by UNDP.

- Albania, Croatia, Kosovo, Macedonia, Serbia, Slovenia and Turkey need to amend criminal and antidiscrimination legislation to include sex characteristics as a personal ground of protection from discrimination, hate speech and hate crimes;
- Bosnia and Herzegovina and Montenegro need to ensure proper implementation of antidiscrimination legislation covering sex characteristics as a personal ground of protection and amend criminal legislation to include sex characteristics as protective ground from hate crimes;

## 10. Freedom of Assembly and Expression

Several pride events took place across the ERA region in 2018 which contributed greatly to the visibility of the community and the movement.

The seventh Tirana (P)ride event in **Albania** took place on May 13th and was attended by around 400 people making it the biggest LGBT event so far.<sup>71</sup> The event had no incidents or counter protests, and took place in a very positive atmosphere, regardless of the recent public and media backlash in relation to anti-bullying and educational activities held in Tirana's high schools by LGBTI organisations in cooperation with the Ministry of Education and Sports.

In **Serbia**, Belgrade Pride march took place on 16 September and was attended by around 1000 participants, including Serbia's openly lesbian Prime Minister Ana Brnabic.<sup>72</sup> This was the second year that the Prime Minister attended the pride march, even though, this time her presence was contested by some activists in the country due to her controversial statements (eg. "LGBT rights would be addressed only after important problems such as inflation, pensions and the standards of living have been resolved") and the fact that the Serbian government has done very little in the last few years as far as legal and policy progress on LGBTI rights are concerned. The Pride itself, however, has a history of brutal violence (2001 and 2010) and anti-LGBT protests, and only in the last 5 years it has taken place with clearance from the Ministry of Interior and peacefully, amid very high presence of police and security forces. 2018 marked also the second year that a very visible Pride Information Center was opened and welcomed visitors at the capital's main avenue. Meanwhile, some organisations and activists in Serbia, have decided to organize another pride event every June in Belgrade, called "Pride of Serbia", whose main goal is "to bring the gay march back to ordinary people and away from politicians".<sup>73</sup>

In **Kosovo**, on 10 October, Pristina held its second Kosovo Pride Parade which was attended by hundreds of activists and supporters. The event's slogan was "In the name of freedom" and it aimed to raise awareness on the main issues of discrimination and violence that the LGBTI community still suffers in the country. The Pride was attended among others by senior government representatives, politicians, artists, international community as well as the mayor of Pristina.<sup>74</sup>

On November 17th **Montenegro** held its 6th annual pride, under the slogan "We are not kissing chains" in reference to a well known Montenegrin poem. The event was held peacefully and no incidents were recorded.<sup>75</sup>

In EU member state **Croatia**, the 17th Zagreb Pride march took place on June 9th with an attendance of more than 10.000 people. Participants pointed out how this year's pride took

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<sup>71</sup> <https://www.ilga-europe.org/blog/ride-pride-tirana-2018>

<sup>72</sup> <http://parada.rs/en/>

<sup>73</sup> <https://www.bbc.com/news/world-europe-45524385>

<sup>74</sup> <http://www.balkaninsight.com/en/article/hundreds-join-pride-parade-in-kosovo-10-10-2018>

<sup>75</sup> <https://www.rferl.org/a/montenegro-podgorica-gay-pride-parade/29606215.html>

place “amids frequent attacks on the rights of women, transgender persons, families and children, minorities and all aspects of gender and other forms of diversity”. The slogan of the pride was “long live gender” as a message to the anti-gender movement, taking place in different parts of Europe, Croatia included, and also as a protest to give an end to “referendums directed at suppressing human rights.”<sup>76</sup>

In **Slovenia**, Ljubljana also hosted its 18th pride march on 23 June. Meanwhile, on November 13th Ljubljana held the first ever trans march organized in Slovenia. The event took place in the framework of the annual formal meetings TransMisija. However, unlike the previous four years, organizers decided to move the event to the streets with the intention of taking up public and media space.<sup>77</sup>

**Bosnia and Herzegovina** and **North Macedonia** have not yet been able to host Pride marches even though in both countries pride week events and important demonstrations have taken place. LGBTI organizations in both countries have held pride week events which have aimed to mobilize the community, raise awareness and visibility and create further space for expression.

For **Turkey**, however, 2018 was yet another challenging year as far as freedom of assembly and expression for LGBTI rights are concerned. In November 2017, the Ankara Governorship issued an indefinite ban of LGBTI activities on ambiguous grounds such as “protection of public health and morality”, “social sensibilities and sensitivities”, “public security” and “protection of other people’s rights and liberties”. The ban has been considered illegal, discriminatory and arbitrary by lawyers and LGBTI activists and it left LGBTI organisations and activists under a very complex situation, which creates grounds for interpretations and rights violations.<sup>78</sup> Meanwhile, the separate appeals of both Kaos GL and Pembe Hayat, to halt the execution of the indefinite ban on LGBTI events were both rejected by the 4th and 13th Administrative Courts arguing in their decision that the “ban will not cause unrecoverable or impossible results, and that the decision is not unlawful”. In their legal analysis of the decision lawyer of Kaos GL argued that “the right to move and the right to communicate for a person are similar to the right of an association to organize an event. In this respect, the current situation is that LGBTI associations in Ankara are detained, and even arrested. Therefore, this ban implies the same result for us.”<sup>79</sup> The organisations took the case to Appeal which was consequently rejected by the Administrative Court. The organisations then took the case in front of the Constitutional Court on the grounds that the ban violates freedom of expression, association and assembly. In the submission to the Constitutional Court, Kaos GL emphasized also that when the Administrative Court rejected the appeal, the also violated the right to a fair trial. Kaos GL applied to the Constitutional Court for injunction but the latter rejected the application. The Constitutional Court has not decided on the ban yet. Kaos GL decided to apply to the European Court of Human Rights after the rejection of the Constitutional Court.<sup>80</sup>

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<sup>76</sup> <https://www.total-croatia-news.com/politics/28973-10-000-people-take-part-in-2018-zagreb-pride>

<sup>77</sup> [https://www.youtube.com/watch?v=T46WB3\\_SOTM](https://www.youtube.com/watch?v=T46WB3_SOTM)

<sup>78</sup> <https://www.lgbti-era.org/news/governorship-ankara-bans-all-activities-lgbti-organizations-“public-morality”-grounds>

<sup>79</sup> <https://www.lgbti-era.org/news/appeal-hold-execution-“lgbti-events-ban-turkey”-rejected-administrative-court>

<sup>80</sup> <http://www.kaosgl.org/page.php?id=27055>

## Recommendations

- The Governorate of Ankara should stop the absurd ban of LGBTI+ events on grounds such as “social sensitivities and sensibilities” or “public security”. Such bans constitute serious prohibition to the freedoms of expression and assembly of Turkish citizens;
- Public authorities in Bosnia and Herzegovina and North Macedonia should continue and improve their cooperation with LGBTI CSO in order to ensure their safety and freedom of assembly and expression.

## 11. Access to Health

As of 2018, across the south-eastern European region there is an expanding HIV epidemic among gay and bisexual men which is on the verge of spinning out of control. From 2007 to 2016, the number of new HIV diagnosis has risen over 300% across the region, compared to an average of 13% increase among gay and bisexual men in the European Union.<sup>81</sup>

According to 2018 government reports, the range of essential prevention interventions for gay and bisexual men remain small and patchy in most countries of the Balkans and Turkey and are far from reaching the comprehensive prevention combination package recommended by ECDS, WHO and UNAIDS. Prevention interventions are still extremely weak in most of the countries and not at an adequate scale to impact the epidemics.<sup>82</sup>

With the exception of Slovenia, access to Pre-Exposure Prophylaxis (PrEP), a novel and highly effective intervention against HIV infection, is not adequately available in any country of the region. PrEP is sold in only but a few pharmacies in each country, with extremely high prices and it is not covered by health insurance. What are lacking, are also support services that address the recent phenomenon of chemsex (sexualised drug use among some groups of men who have sex with men). Essential prevention interventions such as condom distribution and programmes for health promotion and behaviour change do not exist or have very low coverage in the majority of countries.<sup>83</sup>

Government reports reveal also that gay and bisexual men have limited options for HIV testing, and with a few exceptions (Croatia, Kosovo and Slovenia), testing coverage is low or only medium in most countries of the ERA region.<sup>84</sup>

The region lags behind also in terms of new approaches such as self-sampling or self-testing and only Macedonia reports a high coverage of community-based HIV testing. Data on HIV treatment is also insufficient, and treatment is reported low in most countries of the region. As a result, low rates of HIV testing among ga/bi men, MSM and trans persons and the generally low rates of HIV treatment coverage and viral suppression implies, that the “test and treat” approach, which along with access to PrEP have led to massive declines of new HIV infections among MSM elsewhere are yet to be properly applied and harnessed in our region.<sup>85</sup>

## Recommendations

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<sup>81</sup> “Make or break it – turn the tide on the expanding HIV epidemics among gay men and bisexual men and trans people in South-Eastern Europe!”, 2018, pg.2

<sup>82</sup> Data from the Dublin Declaration monitoring – 2018 progress, European Centre for Disease Prevention and Control. Bosnia and Herzegovina did not submit any response and is not included in this survey.

<sup>83</sup> “Make or break it – turn the tide on the expanding HIV epidemics among gay men and bisexual men and trans people in South-Eastern Europe!”, 2018, pg.5

<sup>84</sup> *Ibid*, p. 5

<sup>85</sup> *Ibid*, p. 6

- Governments of the Western Balkans and Turkey should take urgent measures to prevent the HIV epidemic among MSM, gay and bi men, as new HIV diagnosis has increased to 300% in south-eastern Europe;
- Basic prevention interventions should be scaled up across the region and new highly effective prevention tools like PrEP should be introduced urgently;
- Actions should be taken jointly with the recent efforts to protect and strengthen the fundamental rights of LGBTI persons. The fact that this community is the only one affected by the epidemic reveals a correlation between discrimination, invisibility and high rates of infections;
- As the Global Fund and other donors are leaving, countries should increase domestic financing of HIV prevention programmes and work closely with community based organisations;
- The European Union and other donors should step in and provide time-bound bridge funding to protect the investments and gains made and facilitate transition into government led prevention and treatment programmes;
- LGBTI community based organisations should be involved in all levels of interventions as they are the most suitable groups which can effectively reach and work with gay, bisexual men and trans persons;



## 12. Regional cooperation and dialogue

In 2018 ERA continued with its efforts to engage with government and other state institution stakeholders at the regional level. In May, the World Bank hosted in cooperation with ERA a policy-makers workshop with participants from Croatia, Bosnia and Herzegovina, North Macedonia, Montenegro and Serbia. The round table made it apparent that the Western Balkans region has made some progress in ensuring inclusion and respect for LGBTI people, however challenges remain in implementation. Lack of LGBTI disaggregated data and mechanisms for gathering data were at the center of discussion. Priority for policy-makers and organisations in the discussions were security, labor market, access to jobs, healthcare and social services for LGBTI people. The need for further building capacities of police officers, judges and other public servants on SOGI inclusion was also emphasized.

In July, ERA and five member organisations Subversive Front, Juventas, Da Se Zna!, PRO LGBT and Centre for Social Group Development as well as Sarajevo Open Center attended the Western Balkans Summit in the framework of the Berlin Process. ERA in cooperation with Stonewall UK engaged significantly with the Foreign Ministry of the United Kingdom as well as governments in the region to ensure that LGBTI rights took an important stage in the Civil Society Forum discussions, Amarildo Fecanji from ERA and Emina Bosnjak from Sarajevo Open Center were panellists at one of the spotlight events on “Discrimination in the Western Balkans” where they emphasized the most pressing needs of the LGBTI community in the region and the demands for further help and support in achieving their legal and social rights.

In September ERA joined also the Western Balkans Parliamentary Seminar hosted by the British Group of the Inter-Parliamentary Union and attended by MP’s of six countries of the Western Balkans as well as Croatia and Bulgaria. The seminar provided a spotlight to ERA and allowed for us to discuss with Parliamentarians from the region the issues that the LGBTI community faces and their demands for Parliaments to continue legal advancements of the rights of this community. Dialogue with several MPs from the region was established, in particular with members of the Inter-Party working group on LGBTI rights of the Assembly of North Macedonia.

And finally, in October 2018 in the framework of ERA’s Annual Conference a meeting of the Intergovernmental Platform on LGBTI rights took place in Skopje, North Macedonia, hosted by the Ministry of Labour and Social Affairs under the special care of Minister Mila Carovska. The meeting, which was attended by government representatives of four countries served as an encouragement for governments of the region to intensify their dialogue, exchange and cooperation on LGBTI rights.

Main conclusion of this important meeting were the following:

- The governments of the region, present at the meeting, are all dedicated to advancing the rights of LGBTI people in their countries and they plan to continue with that practice;
- In order to achieve this, they oblige to strengthen the structure of the Inter-regional governmental group with appointing Chairmanship;
- The first Ministry to take the Chair role is the Ministry of Labour and Social Policy from North Macedonia;

- ERA will take the role of technical secretariat and will provide continuous support to the Chair and the members of the Group;
- Attempts will be made to Include the Members of Parliament in this group, since they are the one who are voting and adopting laws;
- Governments present at the meeting meeting, pledged to work together with the CSOs in improving the legislation but also in changing the hearts and minds of the people in our society;

In addition, in January 2018, ERA joined a dialogue meeting between civil society and donors which aimed to address the health and rights crisis in South Eastern Europe: building partnerships to sustain HIV prevention services for key populations. The event was hosted, among others, by ERA's member organisation from North Macedonia HERA. In the framework of this activity ERA hosted a side-event which aimed to discuss two main topics: 1) the current gaps and challenges in cooperation between LGBTI organisations and those working on HIV prevention and harm reduction as well as needs and possibilities for regional cooperation to support this work. Following these important discussion ERA was encouraged to engage more closely on the rising epidemic among gay and bi men as well as trans persons in the region. As of 2019 ERA will implement a pilot HIV project in the Western Balkan region which aims to bridge the gap between LGBTI and HIV organisations and address the current HIV epidemic from a human rights perspective.

### **Recommendations**

- The countries of the Western Balkans region share common challenges when it comes to the legal and social protection of LGBTI communities. In addition, they share also a common path in terms of European Union integration as well as their commitments to protect citizens from discrimination based on their sexual orientation, gender identity and expression as well as sex characteristics. In addition, other mechanisms such as Council of Europe Recommendations 2010(5) provide excellent opportunity for closer engagement and dialogue. As such regional cooperation is crucial in order to create and maintain a momentum of positive and systematic change and progress. This dialogue should provide the opportunity for governments to minimize costs, learn from each-others practices, design and implement common initiatives etc. Such cooperation should extend not simply on the legal aspect but to address also many more common challenges such as those affecting the health of LGBTI people, protection from violence, access to services etc. ERA will continue to engage very closely, in cooperation with its member organizations, in order to strengthen this regional cooperation and make it useful to concrete and tangible legal and social changes in the region.

### 13. ONE YEAR OF ERA ACTIVITIES

In 2018, ERA – LGBTI Equal Rights Association for the Western Balkans and Turkey increased its membership to 58 LGBTI organisations and has implemented a number of key activities, in the domain of advocacy, capacity building, research and networking. Throughout the year, ERA has been engaged in a number of advocacy activities and meetings, both on national level, regional and international levels, with increased focus on utilizing UN mechanisms, as well as European Union and Council of Europe mechanisms. In this period, 21 advocacy meetings and workshops with representatives of CSOs, national governments and institutions, as well as with representatives of international institutions and donors took place.

As part of its advocacy and networking efforts, ERA's second Annual Conference entitled *"Empower, Challenge, Transform"* was organized in Montenegro, Podgorica, bringing together over 150 participants from the region and beyond, including LGBTI CSO representatives, government representatives, representatives of the international institutions and organizations, and donors. In addition, ERA has organized a five-day study/advocacy visit in Berlin for representatives of its member organizations, including an international conference in the German Foreign Office in Berlin. In December 2017, ERA has co-organized, together with Stonewall UK, a regional conference on access to justice for LGBTI persons in Skopje, Macedonia.

In 2018, after two years of targeted advocacy efforts, ERA was able to influence the pioneering inclusion of LGBTI issues within the Western Balkans W6-Berlin Process, one of the most important political forums for regional inter-governmental cooperation. In addition, as a result of advocacy efforts and strategic cooperation with the World Bank – SOGI Team, for the first time ever ERA was able to integrate an LGBTI perspective within the World Bank Spring Meetings, which were held in Washington DC in April 2018, and which resulted in a concrete and actionable plan for comprehensive inclusion and economic empowerment of LGBTI persons in the Western Balkans and Turkey region, in the coming period.

In March 2018, following the rapid deterioration of the rights of LGBTI persons in Turkey, ERA has organized strategic planning and capacity development meetings with its member organizations in Istanbul, Ankara and Bursa, with the aim to address burning issues related to security and safety, services, international solidarity, emergency measures and policies, etc.

As part of its advocacy efforts, ERA has prepared a comprehensive report on the position of trans persons in the Western Balkans and Turkey, and has submitted it to the United Nations Independent Expert on sexual orientation and gender identity. The data from the report was incorporated in the Report of the Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity, where the Independent Expert examines the process of abandoning the classification of certain forms of gender as a pathology and the full scope of the duty of the State to respect and promote respect of gender recognition as a component of identity and highlights some effective measures to ensure respect of gender identity and provides guidance to States on how to address violence and discrimination based on gender identity.

During 2018, ERA has been working on developing its sub-granting strategies and procedures, and will be launching an open call for its member organizations by the end of 2018, with the aim to provide financial support to 10-12 LGBTI organizations. In parallel, ERA has been preparing a regional three-year capacity building program for LGBTI CSOs, in several priority areas, which will start to be implemented towards the end of this year, and has been dedicating a significant portion of its capacities to organizing ERA's Third Annual Conference, which takes place in October, in Skopje, Macedonia.

In 2018 ERA has increased its staff capacity by recruiting an advocacy manager, and will recruit a grant manager as well by the end of October. As a result, ERA is operating with 6 full time staff members and 2 part-time staff members. In 2018, ERA's team has been able to increase ERA's yearly budget by 20%, in comparison to 2017, and by 40% in comparison to 2016. In addition, in 2018 ERA has been able to increase the percentage of its funds being used for programmatic costs. As a comparison, in 2016 ERA was spending 44% of its budget on salaries, 9% of its budget on office and administrative expenses and 47% on programmatic activities. In 2017, ERA was able to increase its financial resources and was spending 35% of its budget on salaries, 9% on office and administrative expenses and 56% on programmatic activities, and finally in 2018, ERA is spending 30% of its budget on salaries, 6% on office and administrative costs and 64% on programmatic activities. The overall yearly budget for 2018 is 245.000,00 EUR

## ERA 2018 OBJECTIVES AND ACTIVITIES

In 2017 ERA General Assembly and ERA Steering Board have discussed and adopted 2018 objectives and plan of activities.

As a result, the *overall objective* of ERA's work program in 2018 is to advocate and improve protection of human rights and fundamental freedoms of lesbian, gay, bisexual, transgender and intersex persons (LGBTI) in Western Balkans and Turkey, by promoting, supporting and achieving a more dynamic and influential LGBTI movement in the WB&T region that takes an active role in shaping public debates on democracy, human rights, social inclusion and rule of law and has capacities to influence policy and decision making processes.

In accordance to the collectively assessed needs and priorities of the ERA member organizations representing the LGBTI movement in the Western Balkans and Turkey, the *specific objectives* of ERA's 2018 work program are to:

1. Effectively promote and advocate for human rights and fundamental freedoms of LGBTI people in Western Balkans and Turkey on national, regional and international levels, particularly in the context of EU integration processes.
2. Establish ERA as an influential and reliable umbrella organization of the LGBTI movement in the Western Balkans and Turkey region and as the main actor and reference point for advancing LGBTI rights in the region;
3. Increase capacities of ERA and ERA's member organizations in order for them to manage their own development and progress, achieve financial sustainability and become a strong voice in policy reform and EU integration processes and other international platforms, through research, analysis, monitoring and advocacy;

These objectives are in accordance with the ERA Strategic Plan (2016-2020), and are a logical and necessary continuation of 2017 specific objectives, results and activities, carefully designed to build upon previous achievements and identified needs.

The activities that have been planned for the effective achievement of the above objectives are based on four common principles that have guided ERA during since its inception period. The first principle is to set and improve the ground of working procedures, standards and mechanisms which can be referred to at any time and serve as a guide for ERA's work and actions. The second principle is to guarantee the financial sustainability of ERA and that of member organizations and LGBTI groups across the region for the years to come. Again activities during 2018, as a continuation of 2017 activities, will set the ground and assist ERA as well as member organizations in their fundraising and financial sustainability efforts. The third principle is that of enabling ERA and member organizations to effectively lobby, advocate and engage with the national governments, EU and other national and international stakeholders who have a key role in the advancement of LGBTI rights in the Western Balkans and Turkey. Finally the fourth principle is that of creating a public profile of ERA which will make it a main source of information for regional issues, trends etc. These four areas have been identified by member organizations and ERA's executive team as the set of activities that will effectively assist the Association in achieving the overall goal and specific objectives mentioned above, in 2018, as well as in long-term.

Careful attention in the framing of activities has been paid to a set of “natural limits” such as current capacities of team members and activists, the time needed to create and consolidate a fully functioning regional association, financial resources, the working materials that will and can be produced during 2018 and the very specific material and tangible results which can be achieved in a 12 month period.

Based on the above set of three specific objectives and the number of tangible results for a time-frame of 12 months ERA has planned and executed a list of activities which it considers realistic, ambitious and fundamental for an organization which plans to be present and active for many years to come. These activities are a continuation of activities that have started in 2015, 2016 and 2017, while building on achieved results and taking them to the next level in order to achieve the overall and specific objectives, on short term, mid-term and long-term levels, while providing strategic continuity and sustained impact.

In the period of September 2017 until October 2018, ERA has implemented a number of activities within the three strategic areas of work:

## PROMOTING AND ADVOCATING FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF LGBTI PEOPLE IN WESTERN BALKANS AND TURKEY ON NATIONAL, REGIONAL AND INTERNATIONAL LEVELS

**Activity name: Second ERA Annual Conference in Podgorica, Montenegro**

### **Description of activity:**

Preparations for the second ERA Annual Conference and the ERA General Annual Assembly have started early in 2017 and were ongoing until September 2017. The Assembly and the Conference have taken place from 19-24 September in Podgorica, Montenegro. The Assembly has brought together 55 LGBTI member organizations. Following the ERA General Assembly, a two-day conference entitled *“Empower, Challenge, Transform”* was organized, bringing together more than 150 participants from the region and beyond, including government representatives, international community, LGBTI community and LGBTI CSOs. Following the Conference, Podgorica Pride Parade has taken place. The Conference was organized by ERA, in close cooperation with its member organizations from Montenegro (Queer Montenegro, Juventas, LGBT Forum Progress and Spectra). Main theme of the conference was **“Empower ourselves, Challenge the system, Transform societies”**. This year, for the first time, [Open Space Technology](#) (OST) was used as a methodology. Through OST, participants had an opportunity to be driven by their personal passions, similar interests and priorities, and came up with concrete follow up results whether they were recommendations, plans of cooperation, activities and campaigns or simply getting inspired either on a personal or professional level.

### **Relevance:**

ERA’s Annual Conferences are the biggest regional LGBTI event in the Western Balkans and Turkey region, which bring together more than 200 representatives from national governments, parliaments, international organizations and institutions, civil society organizations, donor community, researchers and media. As such, it provides a multifaceted platform for advocacy, networking, capacity development, fundraising and awareness raising, in line with ERA’s and its members’ strategic priorities and needs.

### **Results and impact:**

Over 150 participants coming from the region of Western Balkans and Turkey, as well as from other world regions, had an opportunity to engage in networking, to initiate and participate in discussions around regional priority areas, had a chance to establish further dialogue and planning between LGBTI organizations, national governments, the international community and the donor community. Having in mind that participants had an opportunity to design the program of the Conference in a manner that they found most useful and relevant, participants were able to come up with concrete follow up results whether they were recommendations, plans of cooperation, activities and campaigns or simply getting inspired either on a personal or professional level. Conference evaluation report had shown that participants were overwhelmingly satisfied with the Conference, and have provided useful feedback.

### **Follow up:**

Based on the feedback from participants and lessons learned, ERA has engaged in organizing its third Annual Conference in Skopje, Macedonia.

**Type of the Activity:**

Regional, with a particular focus on Montenegro

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**Activity name: Advocacy Study Visit to Berlin, Germany**

**Description of activity:**

As a continuation of processes and relations established during 2016 and 2017 with the German Foreign Office and Lesbian and Gay Federation in Germany (LSVD), ERA has organized a study visit of its member organizations to Berlin, Germany in November/December, 2017. The study visit included numerous meetings with representatives of German CSOs and government representatives, and an International Conference on LGBTI rights in Western Balkans and Turkey was organized in cooperation with the German Foreign Office. This study visit was organized with the aim to present the status of LGBTI rights in Western Balkans and Turkey, to advocate for the inclusion of LGBTI rights as an essential and integrated part of the increasing cooperation between Germany and the countries of the Western Balkans and Turkey, to initiate closer direct engagement of LGBTI activists with German allies and supporters, as well as to enable networking and communication of ERA and its member organizations with relevant institutions and individuals.

**Relevance:**

Having in mind that Germany plays a very important role in the processes of reform and democratization of countries of the Western Balkans and Turkey, particularly in relation to EU integration process, it is important to create and utilize advocacy opportunities that would in turn have a potential of translating to advancement of LGBTI rights in Western Balkans and Turkey, through international, diplomatic, multilateral and bilateral pressure on governments in the Western Balkans and Turkey region. In addition, establishing relations and learning from German CSOs can prove useful for future cooperation efforts and plans, as well as implementation of best practice examples.

**Results and impact:**

Representatives of ERA member organizations that have participated in the advocacy study visit have overwhelmingly evaluated the visit as a very successful and useful experience, that will help them in their advocacy and capacity building efforts. The visit was successful in providing German institutions and authorities with detailed information on current state of LGBTI rights in the Western Balkans and Turkey region, while taking into account on-going negotiations regarding joining the EU. It was also successful in establishing connections with LGBTI organizations, groups and institutes based in Berlin and discovering and benefiting from different approaches, experiences and successes, while also exploring opportunities for future cooperation. In addition, as a result of this advocacy study visit, ERA was able to get engaged in the Western Balkans W6 – Berlin Process, initiated and led by the Government of Germany, which is one of the main political platforms/processes of relevance for the reform processes in the Western Balkans.

**Follow up:**

The advocacy study visit has strengthened ERA's cooperation with the German Government (German Foreign Office and Federal Ministry for Economic Cooperation and Development), as



well as with the Gay and Lesbian Federation in Germany (LSVD). This cooperation will continue in the coming years, in the areas of regional and international advocacy, and likely in continued financial support for ERA.

**Type of the Activity:**

Regional and international

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**Activity name: Access to Justice Regional Conference in Skopje, Macedonia**

**Description of activity:**

As part of its advocacy and networking regional activities, ERA has cooperated with Stonewall UK in organizing a regional conference on Access to Justice for LGBTI persons in the Western Balkans and Turkey. The regional conference was organized on 8<sup>th</sup> and 9<sup>th</sup> December 2017, in Skopje, Macedonia. The conference brought together LGBTI activists from the region, representatives of law enforcement representatives and prosecutors from the Western Balkans and from the UK.

**Relevance:**

Limited access to justice for LGBTI persons remains to be one of the main problems for LGBTI persons in the region, and learning from best practices from the UK, while engaging in regional dialogue between LGBTI activists and representatives of relevant authorities from the region, provides useful avenues for increased advancement in the area of hate crime, hate speech, discrimination, impunity and underreporting.

**Results and impact:**

The conference brought together LGBTI activists from the region, representatives of law enforcement representatives and prosecutors from the Western Balkans and from the UK. Representatives coming from the Western Balkans had an opportunity to learn from their counterparts in the UK, and to commit to significantly improve their responses in cases of hate crime, hate speech and discrimination towards LGBTI persons.

**Follow up:**

As a follow up to this activity, a strategic meeting with Stonewall UK was organized in 2018, with the aim to evaluate what was achieved and what steps can be taken forward as a follow-up. ERA will remain in close cooperation with Stonewall UK in several work areas, and will increase its regional work on access to justice in Western Balkans and Turkey.

**Type of the Activity:**

Regional and international **Activity name: LGBTI Stakeholder's Coordination Meeting in Tirana, Albania**

**Description of activity:**

This coordination stakeholder's meeting was co-organized by ERA, the World Bank and the Embassy of the Kingdom of the Netherlands in Tirana, Albania, in September 2017. It brought together more than 30 stakeholders from civil society, government, international community, donors and researchers with the aim to present the findings of the regional survey "Socio-

Economic dimensions of LGBTI exclusion” and to a) assess and discuss perceptions of LGBTI community as reflected in the survey, b) discuss priorities of the LGBTI movement in the country and c) increase awareness of stakeholders on the intersex community in Albania. At the discussion, participants discussed the findings of the survey, as well as two legal cases concerning intersex under the supervision of local NGO TLAS. UNDP representative presented the findings of the intersex report, which was the first of its kind to be conducted in Albania.

**Relevance:**

Relevant to providing resources to members to utilise them for advocacy and capacity building. Using empirical data to highlight the issues of LGBTI citizens remains crucial for a coordinated and successful advocacy. Increasing coordination and dialogue among CSO organisations and other stakeholders remains a priority in Albania. The issues and demands of intersex community in Albania remain largely un-addressed and this meeting served to increase awareness among stakeholders.

**Results and impact:**

Provide resources and know-how to member organisations in their advocacy and lobby efforts. Contribute to visibility of LGBTI community and issues. Contribute to strengthened dialogue and cooperation between LGBTI organisations and other stakeholders in the country. Increase awareness on the needs of intersex community in Albania.

**Follow up:**

The research findings, the findings of the intersex report and the two legal cases of intersex minors were shared with all participants. The idea for regular stakeholder’s meetings was welcomed. Intersex report and two legal cases have been included in consecutive advocacy reports of ERA.

**Type of the Activity:**

National: Albania

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**Activity name: LGBTI Stakeholder’s Meeting in Pristina, Kosovo**

**Description of activity:**

ERA in cooperation with member organisations CSGD and CEL as well as the World Bank, the Office for Good Governance of the Prime Minister of Kosovo and the Embassy of the Kingdom of the Netherlands in Kosovo, hosted an LGBTI stakeholders meeting in Pristina, Kosovo, in October 2017. The meeting brought together more than 50 representatives from civil society organisations, government, international community etc, in order to discuss the preliminary findings of the regional survey on “socio-economic dimensions of LGBTI exclusion”, to discuss priorities of the LGBTI movement in Kosovo and to promote further dialogue between state institutions and LGBTI movement in the country. Among many issues, the round table served to highlight the striking phenomenon of violence against LB women in Kosovo, which is recorded as the highest in the region. This survey, reflected also the other national surveys in the country which reveal the high number of cases of violence against women.

**Relevance:**

The meeting reflects the need of the LGBTI movement to increase awareness on the issues and challenges of the community, to push and encourage state institutions to improve their performance on LGBTI rights.

**Results and impact:**

Provide resources and know-how to member organisations in their advocacy and lobby efforts. Contribute to visibility of LGBTI community and issues. Contribute to strengthened dialogue and cooperation between LGBTI organisations and other stakeholders in the country.

**Follow up:**

Office of good governance and LGBTI organisations agreed to maintain dialogue and strengthen their efforts for national action plan and further coordination.

**Type of the Activity:**

National: Kosovo

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**Activity name: Policymakers round-table in Podgorica, Montenegro**

**Description of activity:**

ERA in cooperation with the World Bank co-hosted in Podgorica, Montenegro a policy-makers workshop on “understanding the socio-economic dimensions of LGBTI exclusion in the Western Balkans”, in May 2018. The event was attended by policy makers and LGBTI activists from all countries of the Western Balkans and the discussions helped to identify the progress and regress done in ensuring inclusion and respect of LGBTI people, to highlight the lack of LGBTI disaggregated data and mechanisms and the need for building capacities of police officers, judges and other public servants on SOGI inclusion.

**Relevance:**

LGBTI data are important to influence decision makers and policy makers. Experts within government and equality body institutions are important players in the legal and policy advancements for LGBTI rights. Dialogue and cooperation between CSO’s and government institutions remains a very important component as well.

**Results and impact:**

Empirical data were provided to policy makers along with specific recommendations. Current state of work in government institutions was assessed. Further dialogue between CSOs and policy makers was established.

**Follow up:**

ERA will continue to encourage dialogue between policy makers and LGBTI organisations through all its regional and international advocacy efforts. Resources are frequently provided to policy makers on several LGBTI topics.

**Type of the Activity:** Regional

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**Activity name: Dialogue meeting on HIV prevention in Belgrade, Serbia**

**Description of activity:**

ERA joined the regional dialogue meeting between civil society and donors “Averting a health and rights crisis in South Eastern Europe: Building partnerships to sustain HIV prevention services for key population”. At this one day meeting ERA representative joined the panel on “bridging HIV and human rights: how can LGBTI, sex worker, drug user and PLHIV communities work together to strengthen national and regional advocacy”. Meanwhile, as a side event to this conference, ERA in cooperation with Macedonian member organisation HERA, organized a side-event meeting with LGBTI and HIV organisations from the Western Balkans region which was attended by more than 30 activists and experts. This meeting, which was facilitated by Amarildo Fecanji from ERA and Henning Mikkelsen, an independent HIV consultant, aimed to address two issues: 1) current work done, gaps and challenges in collaborating towards protecting LGBTI rights and addressing HIV and 2) needs and opportunities for a regional approach and support of this work.

**Relevance:**

HIV infections among MSM, gay/bi men and trans women is on the rise across the entire ERA region. Cooperation and dialogue between HIV organisations and those working on LGBTI rights is crucial to address the issue from an intersectional approach.

**Results and impact:**

As a result of this engagement ERA established dialogue with the South Eastern Europe Regional Coordinating Mechanism (RCM) to which it sent a proposal for cooperation in addressing the gap between organisations working on HIV and those on LGBTI rights. Further communication was established with Mr. Henning Mikkelsen who during 2018 became an external consultant to OSF. He will join the ERA conference to provide a workshop on the recent HIV epidemic, meanwhile communication has been established between ERA and OSF to identify a project/initiative through which cooperation and dialogue between HIV and LGBTI organisations can be established regionally. In August 2018 OSF conducted an organisational assessment of ERA and asked the association to provide a Concept Note Proposal in order to address the afore mentioned points.

**Follow up:**

ERA will continue to encourage cooperation and between HIV and LGBTI organisations in the region. ERA could potentially implement a small scale project in 2019 to bridge the gap between HIV and LGBTI organisations in the region. ERA could potentially provide small sub-granting to local organisations to conduct awareness raising activities on the subject.

**Type of the Activity:**

Regional

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**Activity name: Balkan Roundtable on Inclusive Citizenship**

**Description of activity:**

Balkan Roundtable on Inclusive Citizenship 2018 was organized in Belgrade, Serbia by Oslo Minority Network with the Norwegian Helsinki Committee and the Helsinki Committee for Human Rights in Serbia on 3 May 2018. It was part of the series of roundtables that were also organized in the Middle East and South-East Asia. One of the main goals of this regional expert roundtable was to discuss strategies and remedies to improve the situation of minority groups in the Balkan who are in particularly difficult situation, with special focus on adequate visibility and protection of minorities within minorities.

Brief presentations by scholars and CSO representatives were given on the situation in our region, including a presentation by ERA's Advocacy manager on the position of LGBTI Roma in the region.

**Relevance:**

The biggest relevance of this round table was to discuss in detail the existence of minorities within minorities and diversity of different groups, including ethnic and religious groups, but also LGBTI community and to address lessons learned on legal, institutional and procedural messages that may give effective protection of the equal rights of minorities within ethnic and religious minorities in the Balkan countries.

**Results and impact:**

The main challenges LGBTI Roma in the region face were addressed, including visibility, multiple discrimination, access to education, healthcare and justice. Special attention was brought on LBT Roma women. Experts in the region from different backgrounds could have a clearer insight on their position.

**Follow up:**

The brief presentations and main conclusions of this expert roundtable were presented at the International conference organized by Oslo Minority Network with the Norwegian Helsinki Committee in Oslo on 18- 19 June 2018.

**Type of the Activity:**

Regional

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**Activity name: International conference "Greasing the wheels of the criminal justice system: From successful investigation to effective prevention of homophobic and transphobic hate crime"**

**Description of activity:**

The conference was organized by the Council of Europe (with support from the European Union) on 15-16 May in Tirana, Albania. The discussions were articulated around 3 axes – policing, prosecuting and preventing – to draw the attention the fact that the official responsibility for protecting LGBTI persons against violence stretches across the process beginning with the identification and investigation of the violent act by the law enforcement, through the prosecution of the perpetrators by prosecutors and their indictment by judges, up to design of policies to help prevent future acts of homophobic and transphobic violence. ERA's

Advocacy manager participated as one of the panelists of the conference, addressing access to justice through cooperation with institutions in the region.

**Relevance:**

The conference was seen as an opportunity to identify the remaining challenges for a professional response to the phenomenon and to guide the Albanian authorities toward an efficient approach.

**Results and impact:**

The conference aimed to guide the Albanian authorities to an efficient follow-up through peer-to-peer exchange of best practices and direct assistance by other countries.

**Follow up:**

The follow—up of the conference is to achieve that the recording, reporting and prosecuting system is in line with the Council of Europe system.

**Type of the Activity:**

Regional, with special focus on Albania

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**Activity name: Activist Forum on Preventing and Responding to Hate Crimes**

**Description of activity:**

The Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE) organised the Activist Forum on Preventing and Responding to Hate Crimes on 20-21 June 2018 in Warsaw, Poland. The forum addressed two key challenges in civil society hate crime monitoring efforts, namely, under-reporting and disparate hate incident reporting methodologies. Community leaders and civil society activists also gathered in order to create national networks that can make hate crime monitoring and reporting efforts more structured and effective. ERA's Advocacy manager presented how regional networks of CSOs can improve the overall combat against hate crimes.

**Relevance:**

The forum presented the ways civil society can have an impact by monitoring hate crimes and related incidents and provided a forum to share experiences and challenges that activists face in different countries and regions.

**Results and impact:**

The activists were introduced to the hate incident reporting platform, which is an online tool under development, aimed to help activists monitor hate crime and other incidents systematically. The Forum also provided conclusions that national and regional networking of CSOs can improve the overall combat against hate crimes.

**Follow up:**

The forum is the third in a series of events that was organized for activists from across the OSCE region focusing on specific topics and contexts for coalition-building. The broader aim behind these forums is for activists to focus on forming networks.

**Type of the Activity:**

Regional

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**Activity name: Meeting of the Working Group on Hate Crime, under the auspices of OSCE and the Office for Human and Minority Rights of the Republic of Serbia**

**Description of activity:**

ERA was called to participate at the meeting by the Human and Minority Office in Serbia, where the current situation on hate crime related challenges was presented. CSOs working on protection of different groups presented their engagement in the field and provided insight on the future plans.

**Relevance:**

The meeting was important in the sense that it aimed on formalizing the very Working Group for future reference. The participants also had an opportunity to have a look at the Guidelines for dealing with hate crimes published by OSCE and State Public Prosecutor's Office of Serbia, which still haven't been officially presented.

**Results and impact:**

ERA's Advocacy manager provided support to ERA members in Serbia participating in the Working Group and provided comments on Guidelines for dealing with hate crimes, published by OSCE and State Public Prosecutor's Office of Serbia, mainly addressing inadequate terminology related to sexual orientation and expression, gender identity and sex characteristics.

**Follow up:**

ERA will be participating in the Working Group in the future in close partnership with its members in Serbia and according to their strategic planning and activities in the field.

**Type of the Activity:**

National: Serbia

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**Activity name: Launch of the UN standards of Conduct for Businesses in tackling discrimination against LGBTI people**

**Description of activity:**

United Nations in Serbia and ERA are working on the launching of the Global UN Standards of Conduct for Business Tackling Discrimination against LGBTI persons in Serbia. The Standards will be presented in a public event on 11 October 2018 in Belgrade.

**Relevance:**

The Guiding Principles of the UN on Business and Human Rights set clear standards of respect for human rights to the private sector, and the UN Global Compact provides platforms for companies to apply these standards and transfer them to the wider community. The Standards of Conduct are based on the principles of the UN and the UN Global Compact and offer guidelines for companies on how they can fulfill their responsibility to respect the rights of all - including in this case the rights of LGBTI persons. Achieving this goal means fair treatment of LGBTI persons in the workplace, as well as a review of business practices along the supply chain to ensure that discrimination is addressed at every step. These Standards of Conduct also go a step further than engaging the economy, as they point to many opportunities through which companies can contribute to a positive social change at a wider level in the communities in which they operate.

**Results and impact:**

The event will bring together company representatives and LGBTI CSOs with the purpose of addressing why are these UN Standards important for the LGBTI community in Serbia; What are the main issues of discrimination in employment/labour and main concerns about the overall position of LGBTI persons in the work place; and How companies working in Serbia can become champions of LGBTI inclusion in their working environment.

**Follow up:**

It is expected that several major companies in Serbia will embrace and promote the Standards publicly. Promoting the Standards within companies, as well as designing trainings on LGBTI rights for the employees, HRs and management in companies will be advocated as follow-up activities. The major advocacy follow up made by ERA will be applying the same launch in other countries of the region.

**Type of the Activity:**

National: Serbia

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**Activity name: Report on the Implementation of Committee of Ministers' Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity in Turkey****Description of activity:**

Within the regional project "The time is now" Kaos GL, SPoD and ERA submitted this Report on the Implementation of Committee of Ministers' Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity in Turkey with the purpose of providing necessary information to the Council of Europe on the position of LGBTI rights in Turkey, in accordance with the Questionnaire on the implementation of the Recommendation.

**Relevance:**

The Council of Europe standards and mechanisms seek to promote and ensure respect for the human rights of every individual. These include equal rights and dignity of all human beings, including lesbian, gay, bisexual and transgender (LGBT) persons. The second review process of



the implementation of the Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity started in 2018, followed by a first review cycle carried out in 2012-2013. In 2018, following the decision of the CDDH, the SOGI Unit, in coordination with the Network of European Governmental LGBTI Focal Point and in consultation with civil society, has drafted a questionnaire on existing measures and examples of good practices related to the implementation of the Recommendation.

**Results and impact:**

Kaos GL and SPoD filled in the Questionnaire which was later turned in to the Report by ERA's Advocacy manager. This Report aims to provide an in-depth review of the position of LGBTI persons in Turkey to the Council of Europe and the necessity to improve the overall position of LGBTI people in the country by bringing Turkey in line with the Recommendation CM/Rec(2010)5 of the Committee of Ministers.

**Follow up:**

Up-to-date and comprehensive information on the implementation of the Recommendation in Turkey will provide a clear picture of the position of LGBTI people in Turkey and enable the SOGI Unit to draw out the main priorities for the years to come and guide its technical assistance activities.

**Type of the Activity:** National: Turkey

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**Activity name: Meeting with the Commissioner for the Protection of Equality in Serbia**

**Description of activity:**

ERA was called by its three members from Serbia to join the meeting with the Commissioner for the Protection of Equality in Serbia on 6 September 2018. ERA was presented by its Advocacy manager. The main topic of the discussion was filing complaints on the grounds of discrimination based on SOGI to the Commissioner.

**Relevance:**

The Commissioner for the Protection of Equality is an independent, autonomous and specialized state authority in Serbia established on the basis of the Law on Prohibition of Discrimination from 2009. The task of this state authority is to prevent all forms, types and cases of discrimination, to protect the equality of individuals and legal entities in all spheres of social relations, to oversee the enforcement of antidiscrimination regulations, and to improve realization and protection of equality. ERA and its three members wanted to highlight the necessity of this institution to have a more proactive role in prevention of discriminatory behaviour of high state officials, as well as seeking feedback on how to tailor complaints in such cases in the most adequate and efficient way.

**Results and impact:**

After a series of discriminatory behaviour by some of the representatives of the Government of Serbia, LGBTI CSOs in Serbia filed several complaints to the Commissioner. However, some of them were not even reviewed by this institution. Instead of issuing official Opinion and

providing Recommendation, the Commissioner rejected the complaints via Conclusion. Three member CSOs from Serbia wanted to have a discussion about this with assistance from ERA, in order to receive adequate feedback on the nature of these decisions and how to avoid such decisions to be issued by the Commissioner in the future.

**Follow up:**

The decisions of the Commissioner related to the LGBTI rights will be closely monitored in the future. CSOs were also offered assistance from the Commissioner's office when designing a complaint, if necessary.

**Type of the Activity:**

National: Serbia

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**Activity name: Written contribution to the 3<sup>rd</sup> Cycle of Universal Periodic Review of Albania**

**Description of activity:**

ERA in close partnership with its members: Aleanca LGBT, PINK Embassy Albania, Pro LGBT and Streha; and with technical support from ILGA World is preparing and will be submitting this Written Contribution to the 3rd Cycle of the Universal Periodic Review of Republic of Albania, which focuses on the position of LGBTI persons in the country.

**Relevance:**

Through the Universal Periodic Review, the UN Human Rights Council reviews, on a periodic basis, the fulfillment by each of the 193 United Nations Member States of their human rights obligations and commitments. A review of each State is based on: (a) a national report prepared by the State under review; (b) a compilation of United Nations information on the State under review prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR); and (c) a summary of information submitted by other stakeholders (including civil society actors, national human rights institutions and regional organizations), also prepared by OHCHR. The review itself takes place in Geneva in a session of the Working Group on the UPR, which is composed of the 47 member States of the Human Rights Council. At the end of each review, the Working Group adopts an outcome document, which is subsequently considered and adopted by the Human Rights Council at a later session.

**Results and impact:**

This Written contribution was developed in order to adequately address the position of LGBTI persons in Albania to the UN Human Rights Council. It covers the following topics: Legal and Policy Framework, Position of the Commissioner for Protection from Discrimination, Violence and Access to Justice, Hate Speech, Access to Education, Position of Trans Individuals, Position of Intersex Individuals, Prevention of HIV and AIDS, Freedom of Association and Peaceful Assembly and Cooperation with LGBTI CSOs.

**Follow up:**

The report will be submitted for the purpose of adequate development and provision of recommendations on LGBTI rights in Albania by the Human Rights Council. If accepted, it will also be followed by advocacy activities for their implementation.

**Type of the Activity:**

National: Albania

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**Activity name: Submissions to the European Commission (EC) for the annual Enlargement EU Country Reports**

**Description of activity:**

ERA and its members in cooperation with ILGA Europe have prepared submissions on LGBTI rights in the countries engaged in the EU enlargement process to the European Commission (EC) to feed into their Annual Enlargement Progress Reports for 2017/2018, and will do so for the 2018/2019 as well. Submissions focus on developments and priorities for the human rights of LGBTI people in accession countries.

**Relevance:**

The submission of the reports on LGBTI rights is important for the reports adopted by the European Commission through its annual Enlargement Package, including individual reports on every country, assessing the implementation of the European Union's enlargement policy, which is based on established criteria and fair and rigorous conditionality.

**Results and impact:**

The process of data gathering on LGBTI rights in accession countries will last until 2 November 2018, with the aim of ensuring that issues of concern to them are reflected in the reports and can then be used in advocacy activities.

**Follow up:**

New EU country reports of the states involved in the EU enlargement process will be announced next year and will be closely analysed.

**Type of the Activity:**

Regional

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**Activity name: [Report on Legal Gender Recognition in the Western Balkans and Turkey](#)**

**Description of activity:**

ERA, PINK Embassy Albania, Streha LGBT (Shelter), Pro LGBT, CEL Kosova, Subversive Front, The Coalition Margins, Association Spectra, Egal, Gayten – LGBT, Legebitra, TransAkcija Institute, Pembe Hayat and SPoD submitted this written contribution, which focuses on the situation of trans individuals in the Western Balkans and Turkey, as of 2018, with the purpose of providing necessary information to the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity. In order to collect all the necessary up-to-date data, ERA performed a desk research on the current situation of trans

individuals and prepared a special Questionnaire on trans rights situation in the Western Balkans and Turkey, to which 15 CSOs and activists from seven countries responded to, while two of the respondents decided to remain anonymous and their identity is not included. This report covered the following topics related to trans people in the Western Balkans and Turkey: Legal and policy framework, Access to personal documents, Access to healthcare, Access to employment, Violence, Access to justice, Access to education, Access to housing, Position of trans individuals who are sex workers, Position of trans individuals who are detained or imprisoned, Position of elderly trans individuals, Freedom of expression, association and peaceful assembly, Trans individuals using drugs and other illegal substances and Socio-economic rights of trans individuals.

**Relevance:**

The Report was of immense relevance, as its purpose was to gather and provide necessary information about trans individuals in the region of Western Balkans and Turkey to the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, who was preparing a Special Report on legal gender recognition and depathologization.

**Results and impact:**

The data from the report was incorporated in the [Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity](#), where the Independent Expert examines the process of abandoning the classification of certain forms of gender as a pathology and the full scope of the duty of the State to respect and promote respect of gender recognition as a component of identity and highlights some effective measures to ensure respect of gender identity and provides guidance to States on how to address violence and discrimination based on gender identity.

**Follow up:**

The UN Independent Expert's report will be presented to the UN Human Rights Council and the UN General Assembly.

**Type of the Activity:** Regional

**Activity name:** Western Balkans Summit, Berlin Process in London, United Kingdom

**Description of activity:**

In July ERA representative and 6 LGBTI activists from the Western Balkans joined the Western Balkans Civil Society and Youth Forum held in London in the framework of the Western Balkans – UK Summit. At this event Mr. Amarildo Fecanji contributed at one of the 2 spotlight events which looked into discrimination in the Western Balkans region and provided ample evidence on the status of LGBTI rights in the region and the work that needs to be done to achieve equality.

**Relevance:**

Advocating with decision makers is one of the priorities of ERA. Getting access to such forums remains important in order to influence decisions, raise awareness and strengthen cooperation with state institutions.

**Results and impact:**

LGBTI rights were included for the first time in the Berlin Process agenda and LGBTI demands were parts of the follow up documentation. Dialogue was established as well with RYCO one of the most important youth regional initiatives of the Berlin Process.

**Follow up:**

Dialogue continued with the FCO throughout this process to make sure that LGBTI topic remains in the agenda for the upcoming summits. Possibilities of cooperation with RYCO are being explored.

**Type of the Activity:**

Regional

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**Activity name: Western Balkans Parliamentary Summit in London, United Kingdom****Description of activity:**

In September 2018, ERA representative joined the Western Balkans Parliamentary Summit hosted in London by the British Union of Inter-Parliamentary Group. The summit brought together around 30 members of Parliament from the entire Western Balkans region and aimed to follow up on the Berlin Process. The main objective was to assess how can Parliaments influence the Berlin Process and take more proactive role in social and political changes. At this Summit, ERA contributed at a panel on ‘cooperation between civil society organisations and Parliaments’ and presented the legal and social situation of LGBTI community in the region as well as introduced the demands of the community of each country for their national Parliaments.

**Relevance:**

Lobby and advocacy with Parliaments is priority for movement across the Western Balkans region as they have an important role to play in improving the legal status of LGBTI rights in our region.

**Results and impact:**

Awareness raised among MPs. A brief with current situation of LGBTI rights and demands for Parliamentarians produced and delivered to them. Cooperation established with Macedonian MP from the Inter party working group on LGBTI rights.

**Follow up:**

Idea discussed with MP from Macedonian inter-group, British MPs and the British Inter-Group to plan and organise a regional Parliamentary Summit on LGBTI rights.

**Type of the Activity:**

Regional

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**Activity name: Advocacy visit in the USA / World Bank Spring Meetings**

**Description of activity:**

Within the framework of close strategic cooperation between ERA and the World Bank, ERA has been invited to participate in the World Bank Spring meetings, in April 2018 in Washington DC. ERA held numerous meetings with different departments of the World Bank, with the aim to mainstream LGBTI rights and diversity within the work of World Bank. In addition, ERA has used the opportunity to organize meetings with other important stakeholders in Washington DC and New York, such as USAID, Human Rights Campaign, US State Department, US Congress, Gay and Lesbian Victory Institute, Gay and Lesbian Chamber of Commerce, UNDP, Office of the UN High Commissioner for Human Rights and Arcus Foundation. For the purpose of the ERA's advocacy visit to the United States, ERA has prepared a special document containing information on the position of LGBTI rights in all 9 countries where ERA members come from, which was presented and distributed to all relevant stakeholders.

**Results and impact:**

As a result of advocacy efforts and strategic cooperation with the World Bank – SOGI Team, for the first time ever ERA was able to integrate an LGBTI perspective within the World Bank Spring Meetings, which resulted in a concrete and actionable plan for comprehensive inclusion and economic empowerment of LGBTI persons in the Western Balkans and Turkey region, in the coming period. In addition, ERA was able to strengthen its cooperation with important stakeholders, including USAID, Gay and Lesbian Victory Institute, Gay and Lesbian Chamber of Commerce, UNDP, Office of the UN High Commissioner for Human Rights and Arcus Foundation.

**Follow up:**

During the visit, ERA has agreed on several concrete steps and follow-up activities, with the National Gay and Lesbian Chamber of Commerce (NGLCC) and Office of the UN High Commissioner for Human Rights. As a result, a scoping exercise in Western Balkans is supposed to happen this year, conducted by ERA and NGLCC, with the aim to evaluate and map opportunities in the area of empowering LGBTI businesses and increased engagement with the business sector. Similarly, ERA has been able to discuss the UN LGBTI standards for businesses and agree with the Office of the UN High Commissioner for Human Rights for launching of these standards to take place in the region of Western Balkans and Turkey, which is now scheduled to take place in Belgrade in October 2018.

**Type of the Activity:**

Regional

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**Activity name: Briefing on EU country reports****Description of activity:**

After EU country reports of the states involved in the EU enlargement process were announced, ERA's Advocacy manager analyzed the reports and gathered all the information important for the LGBTI communities in these countries in a single document to be used for advocacy purposes.

**Relevance:**

Progress along the European path is an objective and merit-based process which depends on the concrete results achieved by each individual country, with the rule of law, justice and fundamental rights being an utmost priority. A credible enlargement perspective requires sustained efforts and irreversible reforms. The EU Enlargement process has a powerful transformative effect on the partners in the process, embedding positive democratic, political, economic and societal change. It also strongly affects the position of LGBTI people.

**Results and impact:**

The document gathering all the information important for the LGBTI communities in the EU enlargement process countries was used as advocacy tool in meetings with relevant stakeholders and made it easier for the data to be included in other reports prepared by ERA.

**Follow up:**

ERA and its members will be engaged in gathering data on LGBTI rights for the next round of submissions to the European Commission (EC) to feed into their annual Enlargement Progress Reports.

**Type of the Activity:**

Regional

## ESTABLISHING ERA AS AN INFLUENTIAL AND RELIABLE UMBRELLA ORGANIZATION, A REPRESENTATIVE VOICE OF THE LGBTI MOVEMENT IN THE WESTERN BALKANS AND TURKEY

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**Activity name: “Different Paths to Equality Conference: Marriage Equality and Civil Unions” and Cooperation with European Governmental LGBTI Focal Points Network in Ljubljana, Slovenia**

**Description of activity:**

ERA joined the “Different paths to Equality” conference organised by member organisation Legebitra in Slovenia. At this conference ERA representative presented the findings of the regional survey “socio-economic dimensions of LGBTI exclusion” and established contacts with national, regional and international stakeholders. Consequently, ERA representative joined the 19<sup>th</sup> round-table of the European Governmental LGBTI Focal Points Network which was attended by more than 30 representatives of governments of the entire European region including the Western Balkans. Mr. Amarildo Fecanji contributed at the roundtable meeting with a presentation of the findings of the regional survey as well as the issues and demands of LGBTI community in the Western Balkans. Participation at this event was secured through initial efforts of ERA to establish communication and cooperation with the European governmental LGBTI Focal Points governmental network.

**Relevance:**

Providing empirical findings on LGBTI rights remains an important approach to changing perceptions and attitudes of institutions and the public. The European Governmental LGBTI Focal Points network is an important platform for closer dialogue with government representatives of the western Balkans.

**Results and impact:**

Government representatives of the Western Balkans were informed about LGBTI rights and closer cooperation was established with them. LGBTI organisations and Government representatives of Macedonia were put in contact with the European network.

**Follow up:**

Cooperation and dialogue with the European Governmental LGBTI Focal Points network continues.

**Type of the Activity:**

National: Slovenia and Regional

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**Activity name: Access to Justice Programme Strategic Meeting, in London, United Kingdom**



**Description of activity:**

ERA representative joined this strategic regional meeting organized by Stonewall UK with the participation of 8 LGBTI organisations from the region (7 of which are ERA members). The meeting aimed to assess Stonewall's and partner's future international programmes work, especially in relation to addressing violence against LGBT communities and ensuring access to justice. Discuss other areas of potential collaboration including workplace equality. Develop and output document summarising key demands of the region's movement regarding access to justice and share country and regional context and project updates.

**Relevance:**

Access to justice, workplace diversity and international advocacy are important topics for the entire ERA region. Cooperation with Stonewall has been successful in relation to all three areas.

**Results and impact:**

Future topics of relevance for the region were identified. Future international advocacy actions were identified.

**Follow up:**

Stonewall will continue to remain in the region through an upcoming LBT+ women campaigner's international initiative. ERA and Stonewall cooperated in securing ERA's presence and that of its members at the Western Balkans Summit hosted by the British Foreign Commonwealth Office in July 2018 in the framework of the Berlin Process and at the ensuing Western Balkans Parliamentary Summit held in September 2018 in London as well. ERA and Stonewall have cooperated also on a few international advocacy reports and in strengthening dialogue with British government and Parliament on LGBTI rights as far as the Western Balkans and Turkey region is concerned.

**Type of the Activity:**

Regional, International

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**Activity name: Pride and Prejudice Conference in London, United Kingdom****Description of activity:**

ERA representative was invited by the Economist to be a speaker at their annual "Pride and Prejudice" conference which looks into the issue of LGBTI advocacy from the perspective of the business sector. At this conference ERA contributed at a panel on "how to make advocacy effective on a local level" which aimed to address the dominant Western prerogative of LGBTI freedom and compare it to countless efforts across different parts of the world.

**Relevance:**

Dialogue with important global stakeholders and business community is important for the ERA region as well. Such venues are a space for networking and engaging with donor community.

**Results and impact:**

Raise awareness on LGBTI activism in the Western Balkans and Turkey and encourage further involvement of global businesses in our region too. At this conference ERA representative meet with Give Out a newly established British charity which aims to support LGBTI organisations worldwide.

**Follow up:**

ERA established dialogue and cooperation with Give Out and in August 2018 submitted a concept note proposal for a regional trans rights strategic meeting/workshop.

**Type of the Activity:**

International, Regional

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**Activity name: FRA Stakeholders Meeting in Vienna, Austria**

**Description of activity:**

ERA representative joined the “EU LGBTI II Survey” Stakeholder’s meeting in Vienna. This meeting aimed to assess lessons learned from the 2012 LGBTI survey conducted across the EU as well as the replication of the same survey in the Western Balkans by the World bank in 2017. As ERA was partner of the World Bank in the regional survey, we managed to provide our feedback on the lessons learned with the previous survey. Main focus was on what worked and what didn’t in the previous survey, on and how to reach to a wider spectrum of LGBTI respondents.

**Relevance:**

The survey will be replicated in 2019 not only in 28 EU countries but also in Albania and Macedonia. As such sharing the lessons learned were important to be shared with the FRA team.

**Results and impact:**

Sharing lessons learned and providing important feedback on outreach tools

**Follow up:**

ERA representative established communication with several members of FRA staff, and discussed possibility of cooperation in the future for research projects and initiatives. ERA offered also support for outreach during the dissemination of the survey

**Type of the Activity:**

Regional

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**Activity name: East meets West Forum in Vienna, Austria**

**Description of activity:**

ERA representative joined the 4<sup>th</sup> international East meets West conference in Vienna “Faces of modern diversity” a Europe wide event which focuses on the business case of non-discrimination and inclusion. At this event ERA presented the findings of the regional LGBTI

survey and established dialogue with representatives of CSOs and business community from the European region.

**Relevance:**

Providing empirical evidence remains crucial for impacting approach of business community towards LGBTI rights.

**Results and impact:**

Communication was established with business community and NGOs across Europe including NGLCC which resulted in further planning and discussing scoping exercise.

**Follow up:** ERA will continue its close cooperation with East Meets West and National Gay and Lesbian Chamber of Commerce in the coming period, with the aim to set up a specific working program that would focus on mapping and empowering LGBTI businesses, economically empowering LGBTI persons, increasing capacities of LGBTI organizations to fundraise from the business community, and to engage with the corporate sector for advocacy purposes.

**Type of the Activity:**

Regional

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**Activity name: Presentation of the work of ERA during Pride Week 2018 in Belgrade, Serbia**

**Description of activity:**

ERA was invited by the Organising Committee of Belgrade Pride to present its work during Pride Week 2018 in a media oriented event at Media Centre in Belgrade.

**Relevance:**

The purpose of the event was to bring closer to the media the work of ERA as a regional umbrella association of LGBTI CSOs. ERA was presented by one of Co-directors, Advocacy manager and a Steering Board member.

**Results and impact:**

During the event, the following topics were covered: Mission and work of ERA as a regional umbrella network of LGBTI organisations in the Western Balkans and Turkey; Presentation of the report on discrimination against sexual minorities in education and housing: evidence from two field experiments in Serbia (the report was prepared by the World Bank in cooperation with ERA, IPSOS and The Williams Institute); Economic empowerment of LGBTI people in the Western Balkans and Turkey, with the announcement of the launch of the UN standards of Conduct for Business tackling discrimination against LGBTI people in Serbia; Presentation of the Regional Report on Legal Gender Recognition; and The position of intersex people in the Western Balkans, with a focus on Serbia.

**Follow up:**

The event was covered by various media, including Radio television of Serbia, BBC in Serbian, Radio 202 etc.

**Type of the Activity:** National: Serbia, with focus on Western Balkans

## DEVELOPING ERA'S ORGANIZATIONAL CAPACITIES (STEERING BOARD, STAFF AND MEMBERS)

**Activity name: Increasing financial capacities of ERA member organizations in providing financial support to ERA member organizations**

**Description of activity:**

Resulting from its efforts from 2017, ERA has been able to secure funding from the European Commission for its sub-granting program for member organizations. Within 2018 ERA team members and ERA Steering Board members have been working on developing strategies and procedures for ERA's sub-granting program. 10 to 12 ERA member organizations will be selected for funding following an open call for applications, which will be launched by the end of 2018. During selection, priority will be given to grass-root civil society organisations working on LGBTI issues in the municipalities and smaller cities, or those located in larger cities which are newly established and in need of further capacity development, or those working within underfunded areas and/or for underfunded identities. Financial support can last between 12-18 months and will have a maximum value of 10.000 EUR. Funding can be used for supporting operating costs of ERA member organizations, such as staff costs, office costs, travel costs and communication costs. Apart from financial support, selected organizations will also be receiving intensive capacity development support over a two-year period, which will focus on increasing their capacities in areas of organizational management, financial management, internal procedures, etc.

**Relevance:** Results of the ERA Organizational Capacity Assessment activities have clearly indicated the need for increased financial capacity and sustainability of ERA member organizations, particularly grass-root organizations that operate in smaller local communities, and those that focus on thematic areas and/or identities that are underfunded by donors. In addition to this, and in line with ERA's strategic priorities, successful efforts have been made address this urgent need.

**Results and impact:** Increased financial capacity and sustainability, as well as increased capacity in selected priority areas of 10-12 ERA member organizations from 7 EU accession countries. This activity will contribute to these member organizations being able to manage their own development and progress, achieve financial sustainability and become a strong voice in social change processes in their communities and environments.

**Follow up:** This activity is the first of this kind for ERA, and will set the necessary foundations, standards, experience and capacities, for ERA's continued work in the following years on expanding its sub-granting portfolio.

**Type of the Activity:**

Regional

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**Activity name: Strategic planning and capacity evaluation visit to Turkey**

**Description of activity:**

In March 2018, following the rapid deterioration of the rights of LGBTI persons in Turkey, ERA has organized strategic planning and capacity development meetings with its member organizations in Istanbul, Ankara and Bursa, with the aim to address burning issues related to security and safety, services, international solidarity, emergency measures and policies, etc.

**Relevance:**

Having in mind that the state of LGBTI rights and LGBTI organizing has been deteriorating constantly, and having in mind that this situation is extremely urgent, it was necessary for ERA to closely engage with its member organizations in Turkey in order to identify what needs to be done, and how ERA can be of help.

**Results and impact:**

During this activity ERA and its member organizations were able to discuss, identify and evaluate concrete steps in the areas of advocacy, capacity development and communication, which have enabled ERA to tailor its responses in a way that would be as effective as possible and closely aligned with the needs and interests of its member organizations in Turkey.

**Follow up:**

Based on the results of the visit, ERA will be further designing and implementing specific activities aimed at assisting its member organizations in Turkey, in all relevant areas.

**Type of the Activity:**

National: Turkey

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**Activity name: Increasing capacities of ERA member organizations in Albania****Description of activity:**

In 2018 ERA entered in cooperation with IREX Europe in implementing a capacity building project in Albania with three organisations: Alliance against Discrimination LGBT, PRO LGBT and the LGBT Shelter. The project aims to: a) to strengthen the capacity of LGBT organizations and increase their ability to support their constituencies and improve the acceptance, inclusion and protection of the LGBT community among the general population in Tirana and Albania's regions; b) to increase access to protection and counselling support, as well as access to employment opportunities for the LGBT community, with a special focus on ensuring access to basic services for at-risk young LGBT individuals from Tirana and the regions; c) to promote a more positive image of the LGBT community and improve their acceptance by the general population in Tirana and regions, both through media campaigns and offline activities.

**Relevance:**

Part of ERA's capacity building programme.

**Results and impact:**

In the framework of this cooperation ERA conducted Streha's capacity building assessment and provided technical expertise in the strategic planning of the project.

**Follow up:**

ERA will plan and implement three capacity building trainings for the three member organisations: 1) Strategic Planning in November 2018, 2) Communication in January 2019 and 3) Fundraising and project proposal writing in March 2019.

**Type of the Activity:**

National: Albania

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**Activity name: International Campaigners Conference in Kiev, Ukraine****Description of activity:**

ERA representative joined the international campaigner's conference in Kiev, Ukraine, hosted by Stonewall UK with more than 35 organisations from the entire ex-Soviet Union region. The conference focused on exploring different forms of campaigning under challenging circumstances of authoritarianism and/or oppression. The event served as a space for expert campaigners from a wide euro-asian region to share their different campaigns and models of success. The activity revealed the huge importance of regional and international networking, considering how these activists shared a common geo political space, yet had little networking opportunities. ERA representative shared the experience of establishment of ERA and how networking is helpful to empower activists and provide them with useful resources.

**Relevance:**

Increase capacities of ERA staff members in area of public campaigning. Increase financial sustainability of member organisations in the region.

**Results and impact:**

Increased capacities of ERA staff member on area of campaigning. Further strengthen dialogue and communication of ERA with organisations and networks beyond the Western Balkans and Turkey. Explore possibilities for possible international campaigning project led by Stonewall UK with possible involvement of the Western Balkans and/or Turkey.

**Follow up:**

Stonewall UK established dialogue with ERA on the possibilities for a follow-up international project which could potentially cover ex-Soviet Union countries, ERA region and Latin America. As of Autumn 2018 Stonewall is about to launch a call for expression of interest for LBT+ groups and organisations to join an international campaigners project which will aim to strengthen skills, resources and impact of LBT+ women's and demands. ERA will continue to provide its assistance and expertise to Stonewall and member organisations once this initiative kicks off

**Type of the Activity:**

Regional

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**Activity name: Training program for judges and prosecutors in Serbia****Description of activity:**

The Williams Institute, in cooperation with ERA and the Judicial Academy of Serbia, organized and conducted a training program for judges, prosecutors and Judicial Academy trainees in Serbia, which took place in Belgrade and Zlatibor at the end of May 2018. ERA, in cooperation with several of its member organizations, were involved in program development, and served as trainers/speakers focusing on demographics and lived experience of LGBTI persons in Serbia, and the region. The information came from peer-reviewed academic journals as well as research conducted by the World Bank.

**Relevance:**

The session was designed to present information about the LGBTI population in Serbia, as well as the region, including information about living conditions, employment patterns, income, education, and geographic distribution, in order to bring closer the overall position of LGBTI persons in Serbia to judiciary.

**Results and impact:**

The trainings were very significant, as they showed that representatives of judiciary, as well as future judges and prosecutors had little knowledge and lack of data of LGBTI persons in Serbia and the region.

**Follow up:**

It is expected that such activities will provide good insight to representatives of judiciary, as well as future judges and prosecutors, when working on human rights violations of LGBTI individuals and that similar activities are to be implemented in the future in cooperation with Judicial Academy of Serbia. In addition, the cooperation between ERA and the Williams Institute will continue in the coming period, with the aim to design and implement similar trainings in other countries of the region, in close cooperation with ERA member organizations.

**Type of the Activity:**

National: Serbia

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