



**THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION
AGAINST WOMEN**

74th CEDAW Session (21 October – 8 November 2019)

**Written Contribution on the position of Lesbian, Bisexual,
Trans and Intersex women in Bosnia and Herzegovina**

CIVIL SOCIETY SUBMISSION ON THE IMPLEMENTATION OF THE CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

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Statement of Interest

1. ERA – LGBTI Equal Rights Association for Western Balkans and Turkey, in close partnership with its member organisation from Bosnia and Herzegovina - CURE Foundation, are submitting this Written Contribution on the position of lesbian, bisexual, trans and intersex women (hereinafter: LGBTI women) in Bosnia and Herzegovina to the Committee on the Elimination of Discrimination against Women (hereinafter: the Committee).
2. ERA – LGBTI Equal Rights Association for Western Balkans and Turkey¹, is an umbrella regional association operating in 9 countries (Albania, Bosnia & Herzegovina, Croatia, Macedonia, Kosovo, Montenegro, Serbia, Slovenia and Turkey) with a current membership of 60 LGBTI organisations and objectives to strengthen capacities of LGBTI organisations in the region, lobby and advocate nationally, regionally and internationally for LGBTI rights and strengthen and improve the visibility of LGBTI movement and communities.
3. CURE Foundation² is a feminist-activist organization from Bosnia and Herzegovina that promotes gender and sex equality and works for positive social change through educational, cultural and research programs. By organizing affirmative collective actions, CURE celebrates the strength and power of women, and helps to empower individuals to become initiators of social change in Bosnia and Herzegovina and the world.

¹ For more information about ERA, please visit the website: <http://www.lgbti-era.org>

²For more information about CURE Foundation, please visit the website: <http://www.fondacijacure.org/index.php>

Summary

4. Bosnia and Herzegovina (hereinafter: BiH) is divided into three federal units: two entities – the Federation of Bosnia and Herzegovina (hereinafter: FBiH) and Republika Srpska (hereinafter: RS) – and one district: District Brčko. FBiH is further divided into 10 cantons. Legislative authority for FBiH and RS reside in their respective law-making bodies. District Brčko is a special administrative unit within BiH. The Constitutions/statutes of each entity, district and canton govern the powers that they have over issues related to legislation. The central government's powers are limited.
5. Local CSOs report that the majority of lesbian, gay, bisexual, trans and intersex (hereinafter: LGBTI) persons are not out about their sexual orientation and gender identity. As a result, the visibility of the LGBTI community in BiH remains very low. Position of lesbian and bisexual women, as well as trans and intersex individuals and social perceptions towards them are very hard to measure.
6. Public opinion polls have shown that LGBTI persons, along with Roma persons, are the least accepted minority group in BiH. The vast majority of the citizens of BiH continue to see homosexuality as a disease and support criminal prosecution and punishment of LGBTI persons. The vast majority of families would not accept an LGBTI family member and would reject and exclude them solely by reason of their different identity and personal characteristics.
7. According to recent data³, only 13 percent of respondents in BiH said that positive measures to promote respect for the human rights of lesbian, gay, and bisexual people are common. Even fewer respondents, only 8 percent in BiH, said that measures to promote the human rights of transgender people are common, and very few respondents (7 percent) said the same about measures to promote the human rights of intersex people.
8. The adoption of amendments to the BiH Law on Prohibition of Discrimination have created a strong legal basis for combating violence and discrimination against LGBTI persons. However, low number of reported cases of human rights violations of LGBTI persons exist, suggesting that under-reporting is widespread. This confirms the need for the development and implementation of LGBTI-inclusive public policies.
9. BiH does not legally recognize same-sex partnerships, putting persons, especially women and children, living in same-sex families in a discriminatory position and with inadequate support and protection.
10. In BiH, there is insufficient support to trans persons in the gender reassignment process, including trans women. The protection of intersex persons against unnecessary surgeries, starting already in early childhood, is yet to become subject of professional debate.
11. The position of LGBTI persons is not adequately recognized within the education system in BiH. On one hand, there is no education about sexual and gender diversity at any level in the educational system of BiH and LGBTI persons and their lives are often presented as a disorder or a socially pathological phenomenon. On the other hand, young LGBTI persons face peer violence and bullying in schools, while teachers and other school staff are not trained to tackle this problem.

³ Life on the Margins: Survey Results of the Experiences of LGBTI People in Southeastern Europe, World Bank in cooperation with IPSOS, ERA and The Williams Institute, September 2018, p. 30-31: <http://www.lgbti-era.org/sites/default/files/pdfdocs/0354%20Life%20on%20the%20Margins%20Survey%20results%20of%20the%20living%20experiences%20of%20lgbti%20people%20in%20south%20eastern%20europe-ilovepdf-compressed.pdf>

12. Concluding observations by the Committee on the Elimination against Discrimination of Women (hereinafter: the Committee) on the combined fourth and fifth periodic reports of BiH⁴ (hereinafter: Concluding observations) did not include any specific recommendation related exclusively to LGBTI women.
13. Sixth periodic report to the CEDAW submitted by BiH⁵ (hereinafter: the State report) contains scarce information on the protection of rights of LGBTI women.
14. This submission has been structured to highlight issues faced by LGBTI women in BiH and address them to the Committee, divided into different chapters highlighting main issues LGBTI women face. The recommendations are listed at the very end of this written contribution, for which we hope will be drawn on for the Committee's Concluding Observations.

Gender Equality

15. Current Gender Equality Law of BiH⁶ does not explicitly cover sexual orientation, gender identity and expression and sex characteristics as protective personal grounds. It does not mention these characteristics in any way in relation to gender equality.
16. The State Report states that in order to systematically introduce the principle of gender equality in all domains of public and private life, the Council of Ministers of BiH has adopted the second BiH Gender Action Plan for the period 2013-2017⁷, and obliged all relevant BiH institutions to get actively involved in implementation of activities planned within this document⁸. However, the State report does not explicitly recognize LGBTI women in any way. There is no information available if any of the LGBTI CSOs being included in the process of the preparation of this document.

Protection from Discrimination

17. The data gathered among 196 lesbian, bisexual and trans women in BiH⁹ shows that 50.3% of respondents cited fear of discrimination as the primary reason for not telling someone that they were lesbian, gay and bisexual (hereinafter: LBT women). The number of respondents who reported having experienced some form of discrimination is worrying. About one-third (32.7%) answered affirmatively when asked whether they were discriminated against because of their LBT identity¹⁰. It is alarming to see that as many as 31.2% of those who reported having experienced discrimination reported being victims of some form of sexual harassment¹¹. However, a small number of respondents who reported experiencing some form of discrimination reported the same - only 10.9% of the respondents reported that they had suffered discrimination, making the discrimination a less documented phenomenon. On the other hand, it is troubling and discouraging to find that none of these reported cases were considered in court¹². Respondents

⁴ CEDAW/C/BIH/CO/4-5, 30 July 2013.

⁵ CEDAW/C/BIH/6, 19 April 2018: https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BIH/CEDAW_C_BIH_6_7313_E.pdf

⁶ The Official Gazette of BiH, number: 16/03 and 102/09.

⁷ The Official Gazette of BiH, number: 98/13.

⁸ The State Report, par. 14.

⁹ Time is now: Voices of our friends as a step towards understanding the lives of lesbian, bisexual and trans women in Bosnia and Herzegovina, CURE Foundation, 2018, p. 19: <http://www.lgbti-era.org/sites/default/files/pdfdocs/%20Krainji%20Je%20Čas-%20Glasovi%20naših%20prijateljica%20kao%20korak%20ka%20razumijevanju%20života%20lezbijki%20i%20biseksualnih%20i%20trans%20žen%20u%20Bosni%20i%20Hercegovini.pdf>

¹⁰ Ibid, p. 20.

¹¹ Ibid, p. 21.

¹² Ibid, p. 22.

who did not report discrimination cited lack of trust in public officials (52.6%), fear of reaction from family and friends (40.4%), and lack of information on possible assistance (35.1%) and fear of disclosing LBT identity as the main reasons for such a decision (35.1%)¹³.

18. Current Gender Equality Law of BiH¹⁴ does not provide protection from discrimination on the basis of sexual orientation, gender identity and expression and sex characteristics, while the Law on Prohibition of Discrimination¹⁵ provides protection from discrimination on the basis of these personal grounds, being the first antidiscrimination law to explicitly cover sex characteristics in the Balkan region. 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. However, it does not forbid hate speech based on sexual orientation or gender identity. Furthermore, the implementation of this law is missing, as there is no case-law on LBTI women available.
19. The Anti-discrimination action plan published in April 2016 was the first national level policy of its kind to explicitly name LGBT people. However, measures covering LGBT issues had not been implemented within the envisioned period.
20. According to the State Report, the laws regulating the issue of labour and labour relations in BiH are in line with the Gender Equality Law. Provisions have been introduced setting out the basis and types of discrimination in work and labour relations, prohibition and protection from discrimination, as well as definitions of the prohibition of sexual harassment and gender-based violence, and legal protection that applies to these cases have been provided¹⁶.
21. However, Labour Law of FBiH¹⁷ explicitly prohibits discrimination on the grounds of sexual orientation, while 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 Srpska¹⁸ does not cover sexual orientation and gender identity explicitly as protected grounds of discrimination. It prohibits discrimination on any characteristic not directly related to the nature of the work. Neither of these laws are in line with Law on prohibition of discrimination, as they also do not cover sex characteristics as protective ground.
22. In addition, employment and financial reasons are also frequently cited among respondents for not being public about being LBT women. 35.5% stated fear of inability to find a job, 31.1% of losing financial support, and 26.2% fears of job loss¹⁹.
23. The recently adopted Law on Foreigners of BiH²⁰ and the new Law on Asylum of BiH²¹ 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.

¹³ Ibid, p. 23.

¹⁴ The Official Gazette of BiH, number: 16/03 and 102/09.

¹⁵ The Official Gazette of BiH, number: 59/09 and 66/16.

¹⁶ The State Report, par. 155.

¹⁷ The Official Gazette of FBiH, number 26/16.

¹⁸ The Official Gazette of Republika Srpska, number 1/16 and 66/2018.

¹⁹ Time is now: Voices of our friends as a step towards understanding the lives of lesbian, bisexual and trans women in Bosnia and Herzegovina, CURE Foundation, 2018, p. 19: <http://www.lgbt-era.org/sites/default/files/pdfdocs/%20Krainii%20Je%20Čas-%20Glasovi%20naših%20prijatelji%20kao%20korak%20ka%20razumijevanju%20života%20lezbijki%20i%20biseksualnih%20i%20trans%20žen%20u%20Bosni%20i%20Hercegovini.pdf>

²⁰ The Official Gazette of BiH, number: 88/15.

²¹ The Official Gazette of BiH, number: 11/16.

24. It is important to note that BiH does not have multiple discrimination included as protective ground in any of its laws, which particularly affects women who belong to multiply marginalized groups of women, such as LGBTI Romani women, LGBTI women with disabilities, LGBTI elderly women, LGBTI women in rural areas etc.
25. According to the State Report, Press Code and the Radio and TV Broadcasting Code contain provisions that prohibit discrimination on grounds of sex and promote gender equality²². These codes cover sexual orientation, gender identity and gender expression as protective grounds, but not sex characteristics.
26. The State Report notes that the progress has been achieved in terms of entity Centres for Judicial and Prosecutorial Training organizing trainings that tackled the topic of prohibition of discrimination against minority groups, especially LGBTI individuals²³. However, no LGBTI CSOs were included in the process.

Hate Speech

27. The Internet, social networks and web portals pose a particular problem in spreading hate speech and incitement to violence and discrimination against LGBTI persons and other social groups. The failure of relevant institutions and individuals to respond to this in a timely way means that hate speech and incitement to violence and discrimination spread quickly via the Internet, and then grow into serious threats that cannot be ignored. These in turn incite, or grow into, hate crimes²⁴.
28. Given in mind that a lot of time is spent on the internet and social networks in today's society, the position of LGBTI women is particularly vulnerable. The situation is getting worse if the LGBTI girls and young women are victims of bullying and violence in school, and the perpetrators use social networks as a tool to continue imposing their negative behaviour also online, leaving the victims without a safe space. Similar situation may affect LGBTI women in their working environments.
29. BiH does not have any policy designed and any supporting action plan in place to combat hate speech against LGBTI women on the internet and within traditional media.

Protection from Violence

30. The violence that LGBTI persons face varies from verbal (insults, humiliation, threats, etc.) to physical violence, and the perpetrators of violence vary: it can be someone unknown, but also closest family members. LGBTI women are particularly in difficult position. The data gathered among 196 lesbian, bisexual and trans women in BiH²⁵ shows that 37.2% of respondents cited fear of violence as the primary reason for not telling someone that they were LBT women. 18.4% respondents experienced some form of violence because of their LBT identity. In 88.6% of cases, the basis for the violence experienced was, according to the respondents, their sexual orientation, and in the other 11.4% of cases gender identity/gender expression or sex characteristics²⁶.

²² The State Report, par. 53.

²³ The State Report, par. 51.

²⁴ Being LGBTI in Eastern Europe: Reducing inequalities and exclusion and combating homophobia and transphobia experienced by LGBTI people in Bosnia and Herzegovina, UNDP, 2017, p. 19: <http://www.lgbti-era.org/sites/default/files/pdfdocs/0343%202017%20ENG%20Being%20LGBTI%20in%20Eastern%20Europe%20Bosnia%20and%20Herzegovina%20National%20Report.pdf>

²⁵ Time is now: Voices of our friends as a step towards understanding the lives of lesbian, bisexual and trans women in Bosnia and Herzegovina, CURE Foundation, 2018, p. 19: <http://www.lgbti-era.org/sites/default/files/pdfdocs/%20Krajini%20je%20%C5%99as-%20Glasovi%20na%C5%A1ih%20prijateljica%20kao%20korak%20ka%20razumijevanju%20%C5%9Civota%20lezbijki%20i%20biseksualnih%20i%20trans%20%C5%97ena%20u%20Bosni%20i%20Hercegovini.pdf>

²⁶ Ibid, p. 25.

Violence was reported in 21.6% of cases²⁷. Regarding those cases of reported violence that were not reported, the most common reason for not reporting them was, as in the case of discrimination, mistrust of officials in the proceedings - 82.8% of respondents who did not report experienced violence stated this reason. In this connection, it should be noted that 34.5% of the respondents cited fear of police reaction. The second most frequent reason is fear of abusers, cited by more than half of respondents (55.2%), followed by fear of disclosing LBT identity (51.7%) and fear of reaction of family (51.7%) and friends (41.4%). As many as 24.1% of respondents cited lack of information on possible assistance, again indicating that the process of reporting violence, as well as the accompanying procedures, required additional support for LBT persons to encourage and encourage reporting of cases of violence (or discrimination)²⁸.

31. BiH became the 6th member state of the Council of Europe (hereinafter: CoE) that ratified the CoE Convention on Prevention and Fight against Violence against Women and Domestic Violence (hereinafter: Istanbul Convention). In March 2015, Council of Ministers of BiH adopted a Decision on adoption of Framework Strategy for Implementation of the Convention on Prevention and Combating Violence against Women and Domestic Violence in BiH (2015-2018)²⁹. There is no information if any CSO working on rights of LGBTI women were included in the process.
32. According to the State Report, the 2016 Law on Amendments to the FBiH Criminal Code³⁰ provides definition of hate crime as a criminal offense committed by the offender's bias against a race, skin colour, religious belief, national or ethnic origin, language, disability, gender, sexual orientation or gender identity of another person. Furthermore, the Republika Srpska Criminal Code³¹ criminalizes the offense of "Public provoking and instigating violence and hatred" and it provides penalties or sentences of up to three years of imprisonment for any recourse, provocation or instigation of violence or hatred directed towards a particular person or groups, due to their national, racial, religious or ethnic affiliation, skin colour, sex, sexual orientation, disability, gender identity, origin or other qualities³².
33. However, institutional responses to hate crimes and intolerance against LGBTI persons and enforcement are generally inadequate, investigative and judicial processes are very slow, while perpetrators are generally not punished or punished with insufficiently rigorous measures³³. There is no case-law available when it comes to LGBTI women.
34. According to the State Report, in eight out of ten cantons in FBiH, the Protocols on mutual cooperation on providing comprehensive and effective support to victims/witnesses of war crime cases, sexual violence and other crimes have been signed between relevant ministries, institutions and non-governmental organizations, and as a result - the witnesses/victims have better access to information and learn about the steps, procedures, and the kind of support they can obtain³⁴.
35. The State Report further states that non-governmental organizations provide active and direct support, protection and rehabilitation to victims of domestic violence in BiH, gathered around the

²⁷ Ibid, p. 26.

²⁸ Ibid, p. 27.

²⁹ The State Report, par. 77.

³⁰ The Official Gazette of FBiH, number 46/16.

³¹ The Official Gazette of Republika Srpska, number 64/17.

³² The State Report, par. 32.

³³ Time is now: Voices of our friends as a step towards understanding the lives of lesbian, bisexual and trans women in Bosnia and Herzegovina, CURE Foundation, 2018, p. 23: <http://www.lgbti-era.org/sites/default/files/pdfdocs/%20Krainii%20Je%20Čas-%20Glasovi%20naših%20prijateljica%20kao%20korak%20ka%20razumijevanju%20života%20lezbejki%2C%20biseksualnih%20i%20trans%20žen%20u%20Bosni%20i%20Hercegovini.pdf>

³⁴ The State Report, par. 37.

"Safe Network", which signed the Agreement on Cooperation with the The Gender Equality Agency of the Ministry of Human Rights and Refugees of BiH. "Safe Network" members are involved in the preparation, monitoring and implementation of strategic documents in the field of domestic violence in FBiH. In five cantons, Gender centre of the Government of the Federation of BiH supported establishing of 22 support groups to work with perpetrators of domestic violence on a voluntary basis. About 180 perpetrators participated. In Modriča, RS, the "Men's Center" which works with perpetrators of domestic violence, was established and made operational. However, there is no specific mention on protection of LGBTI women and no adequate data to support how many LGBTI women were placed in safe houses.

36. In 2017, there were 8 cases of homophobic and transphobic peer violence documented by CSO Sarajevo Open Centre, usually following the lack of reactions from staff of educational institutions, or even victims being mocked by the staff³⁵.

Respect of Private and Family Life

37. The family laws of FBiH, RS and Brčko District define marriage and extra-marital unions as the union between a man and a woman. There are no laws in BiH which recognize a same-sex stable and emotional union within the notion of family life. Specifically, same-sex couples cannot use their constitutional right to respect for private and family life, the right to form a family, the right to the protection of acquired property or the right to freedom of movement and freedom to choose a residence solely on the ground of their sexual orientation. BiH discriminates against its citizens of same-sex orientation by violating equality guaranteed under Paragraph 4 of Article 2 of the BiH Constitution, thereby violating the commitment made in Paragraph 1 of Article 2 of the Constitution that BiH and both entities will ensure the highest level of internationally recognized human rights and fundamental freedoms. BiH also does not recognize violence in same-sex partnerships as domestic violence in the legislation in either of the entities³⁶.
38. This means that same-sex couples, including LGBTI women and LGBTI women with children are left to their own resources. There are no public support programmes for such families, and no efforts have been made to raise awareness within public institutions (including schools) about the problems and needs of these families. This consequently leads to the fact that same-sex families are put in a discriminatory position and with inadequate support and protection.
39. According to the laws of BiH, women without partners are not entitled to medically assisted fertilization³⁷, which has a significant negative impact on LGBTI women and puts them in a discriminatory position. They also have no right to adopt or foster care.

³⁵ 2018 Pink Report: Annual Report on the State of Human Rights of LGBTI Persons in Bosnia and Herzegovina, 2018, p. 8: <http://soc.ba/site/wp-content/uploads/2018/05/Pink-Report-2018.pdf>

³⁶ Being LGBTI in Eastern Europe: Reducing inequalities and exclusion and combating homophobia and transphobia experienced by LGBTI people in Bosnia and Herzegovina, UNDP, 2017, p. 22: <http://www.lgbti-era.org/sites/default/files/pdfdocs/0343%202017%20ENG%20Being%20LGBTI%20in%20Eastern%20Europe%20Bosnia%20and%20Herzegovina%20National%20Report.pdf>

³⁷ Time is now: Voices of our friends as a step towards understanding the lives of lesbian, bisexual and trans women in Bosnia and Herzegovina, CURE Foundation, 2018, p. 9: <http://www.lgbti-era.org/sites/default/files/pdfdocs/%20Krajnji%20Je%20Čas-%20Glasovi%20naših%20prijateljica%20kao%20korak%20ka%20razumijevanju%20života%20lezbijki%20i%20biseksualnih%20i%20trans%20žen%20u%20Bosni%20i%20Hercegovini.pdf>

Access to Education

40. Discrimination during school before age of 18 because of being LGBTI is widespread in Bosnia and Herzegovina: the most recent data, gathered among 487 LGBTI respondents in BiH, suggests very high percentage of hearing or seeing negative comments or conduct against a schoolmate/peer because she/he was perceived to be LGBTI (75%), or experiencing negative comments or conduct at school because of their sexual orientation and/or gender identity and/or being intersex (39%). Only 13% of respondents stated they could openly talk at school about their sexual orientation and/or gender identity and/or being intersex³⁸.
41. The data gathered among 196 LBT women in BiH³⁹ shows that 27.9% of the respondents have been discriminated against in the educational institutions – at school, which is the second space where discrimination happens most often. However, a small number of respondents who experienced some form of discrimination (regardless of the space where the case happened) reported the same - only 10.9% of respondents reported the case to some of the relevant institutions or organizations, making discrimination a less documented phenomenon. On the other hand, it is disturbing and discouraging the finding that none of these reported cases have been considered before the court.
42. Regarding curricula and information on sexual orientation, gender identity and sex characteristics available to pupils, the analysis of textbooks undertaken by the Q Association in 2010 shows that stereotypes and prejudices are deeply rooted in the education system in BiH. This research analysed sixty-two textbooks from three different curricula and covering a range of school subjects including biology, psychology, sociology, democracy and human rights, philosophy and ethics. The research found that the information in the textbooks was not sufficient, was of a very poor quality, that gender stereotypes were used and that they promoted heteronormativity. In some cases, terminology was wrongly defined and the terms gender and sex were confused. Homosexuality was frequently defined as a disease and grouped in a classification of disorders alongside paedophilia and drug addiction⁴⁰.
43. Additional findings suggest that although some subjects seem to be neutral when discussing different forms of sexual orientation, most textbooks discuss homosexuality and bisexuality as wrong or a deviant state, deviant behaviour, sexual deviations, rightfully deserved connector to HIV/AIDS, etc. Issues of trans persons are barely mentioned and intersex issues are discussed as an anomaly and abnormality⁴¹.

³⁸ Life on the Margins: Survey Results of the Experiences of LGBTI People in Southeastern Europe, World Bank in cooperation with IPSOS, ERA and The Williams Institute, September 2018, p. 45-46: <http://www.lgbti-era.org/sites/default/files/pdfdocs/0354%20Life%20on%20the%20Margins%20Survey%20results%20of%20the%20living%20experiences%20of%20lgbti%20people%20in%20south%20eastern%20europe-ilovepdf-compressed.pdf>

³⁹ Time is now: Voices of our friends as a step towards understanding the lives of lesbian, bisexual and trans women in Bosnia and Herzegovina, CURE Foundation, 2018, p. 21-22: <http://www.lgbti-era.org/sites/default/files/pdfdocs/%20Krainji%20Je%20Ćas-%20Glasovi%20na%20prijateljica%20kao%20korak%20ka%20razumijevanju%20života%20lezbijki%20i%20trans%20žen%20u%20Bosni%20i%20Hercegovini.pdf>

⁴⁰ Being LGBTI in Eastern Europe: Reducing inequalities and exclusion and combating homophobia and transphobia experienced by LGBTI people in Bosnia and Herzegovina, UNDP, 2017, p. 25: <http://www.lgbti-era.org/sites/default/files/pdfdocs/0343%202017%20ENG%20Being%20LGBTI%20in%20Eastern%20Europe%20Bosnia%20and%20Herzegovina%20National%20Report.pdf>

⁴¹ GALE European Report 2017 on the Implementation of the Right to Education for Students Who are Disadvantaged because of their Expression of Sexual Preference or Gender Identity, Dankmeijer, P, GALE, 2017, p. 62: <https://www.gale.info/doc/gale-products/GALE-European-report-2017.pdf>

44. The school curriculum does not include sexual education. Thus, sexual education is taught to some extent through the subjects of Biology, Sociology, Psychology, Ethics⁴².
45. No official data is collected on discrimination, bullying and violence in schools on the grounds of sexual orientation, gender identity and sex characteristics. There is no systemic sensitization training for educators aimed at promoting a tolerant environment and preventing violence. An initiative of the CSO Sarajevo Open Centre to promote systematic training and awareness raising campaigns in schools was rejected by the cantonal and RS ministries of education⁴³, even though training of school staff and collection of data on peer violence are essential.

Data Collection

46. In terms of data collection, the State Report notes that institutions at all levels in BiH are obliged to regularly collect record and analyse gender-disaggregated data and statistics, but there is still a lack of sectoral statistics classified by gender and an uneven methodology of data collection at entity level in individual areas, which complicates aggregation of national statistics.
47. BiH does not have official statistics on LGBTI women or sexual orientation, gender identity, gender expression and sex characteristics in general.

Position of Trans Individuals

48. Trans individuals in BiH face high levels of stigma and discrimination. They are often, along with intersex individuals, the most invisible part of the LGBTI acronym but who nevertheless, face more serious challenges than lesbian, gay and bisexual people⁴⁴. Trans women are in particularly difficult position.
49. According to Law on personal name, 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. Trans individuals can only change the sex marker in their official documents after they have completed full medical transition - genital affirming surgery which includes sterilisation⁴⁵.
50. In November 2017, the Institution of the Human Rights Ombudsperson in BiH issued a recommendation emphasising that, according to the Laws on Personal Names in the entities, all individuals can change their names to other names, regardless of the fact that the socially determined sex of the name and the sex marker in the documents of the person are not harmonised. The recommendation was issued following the complaint filed by CSOs Sarajevo Open Centre and Tuzla Open Centre to the Institution of the Ombudsperson, regarding discrimination of a trans person who was denied the change of name by the Ministry of Interior of the Tuzla Canton. After the accepted recommendation, the Ministry changed the name in

⁴² GALE European Report 2017 on the Implementation of the Right to Education for Students Who are Disadvantaged because of their Expression of Sexual Preference or Gender Identity, Dankmeijer, P, GALE, 2017, p. 62: <https://www.gale.info/doc/gale-products/GALE-European-report-2017.pdf>

⁴³ More information available here: <http://lgbti.ba/samoodbrana-ili-samo-plakat/>

⁴⁴ Life on the Margins: Survey Results of the Experiences of LGBTI People in Southeastern Europe, World Bank in cooperation with IPSOS, ERA and The Williams Institute, September 2018, p. 76-77: <http://www.lgbti-era.org/sites/default/files/pdffdocs/0354%20Life%20on%20the%20Margins%20Survey%20results%20of%20the%20living%20experiences%20of%20lgbti%20people%20in%20south%20eastern%20europe-ilovepdf-compressed.pdf>

⁴⁵ 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, ERA and 15 other CSOs, June 2018, p. 7: <http://www.lgbti-era.org/sites/default/files/pdffdocs/Report%20on%20Legal%20Gender%20Recognition%20in%20the%20Western%20Balkans%20and%20Turkey.pdf>

accordance with the Law on personal names of BiH. The institution of the Ombudsperson directed the recommendation to all the Ministries of Interior of BiH⁴⁶.

51. It is important to mention that transgender persons have no access to the appropriate healthcare institutions for gender reassignment purposes, and health funds typically do not cover the medical costs of a gender reassignment surgery⁴⁷. The lack of medical and financial support makes it difficult for trans persons. Both the endocrine therapy and surgical procedures have to be done abroad and such costs are not covered by the state-funded health insurance. Trans individuals go either to Zagreb, Croatia, where part of the gender affirming process is available (psychological support, hormonal therapy and mastectomy) or Belgrade, Serbia, where all trans specific services in regards to transition are available, but much more expensive, less accessible and with a long period of waiting⁴⁸.
52. The State Report also refers that medical change of sex is still not legally or procedurally regulated in BiH, that transgender persons from BiH perform the change of sex abroad, while initiatives aimed at improving the position of transgender people were mostly initiated by non-governmental organizations⁴⁹.
53. This significantly affects the position of trans women in BiH, which is very worrying and requires serious steps to be taken forward in order to improve their position.

Position of Intersex Individuals

54. In BiH there is no data available on the exact number of children born with intersex conditions. According to some media reports, three intersex children were born over the last 20 years. This is highly unlikely and does not correlate with information gathered by non-governmental organizations. Most intersex new-borns are referred to major hospitals in the country and abroad for treatment. All decisions affecting the child are taken by its parents. No systemic measures have been taken to prevent unnecessary complicated surgeries on intersex children⁵⁰.
55. There are 27 gynaecological-obstetric hospitals, in which tests are inadequate for determining intersex diagnoses, and no operations are performed on intersex children. Doctors have inadequate information, knowledge and medical staff to work with intersex babies and their parents, and do not have an appropriate multidisciplinary medical team. There are no internal medical protocols related to diagnostics and treatment of intersex persons. Intersex babies and children are not diagnosed in hospitals. They are referred to larger medical centres for further management⁵¹.

⁴⁶ 2018 Pink Report: Annual Report on the State of Human Rights of LGBTI Persons in Bosnia and Herzegovina, 2018, p. 34-35:

<http://soc.ba/site/wp-content/uploads/2018/05/Pink-Report-2018.pdf>

⁴⁷ Being LGBTI in Eastern Europe: Reducing inequalities and exclusion and combating homophobia and transphobia experienced by LGBTI people in Bosnia and Herzegovina, UNDP, 2017, p. 23: <http://www.lgbti-era.org/sites/default/files/pdfdocs/0343%202017%20ENG%20Being%20LGBTI%20in%20Eastern%20Europe%20Bosnia%20and%20Herzegovina%20National%20Report.pdf>

⁴⁸ 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, ERA and 15 other CSOs, June 2018, p. 7: <http://www.lgbti-era.org/sites/default/files/pdfdocs/Report%20on%20Legal%20Gender%20Recognition%20in%20the%20Western%20Balkans%20and%20Turkey.pdf>

⁴⁹ The State Report, par. 199.

⁵⁰ Being LGBTI in Eastern Europe: Reducing inequalities and exclusion and combating homophobia and transphobia experienced by LGBTI people in Bosnia and Herzegovina, UNDP, 2017, p. 26: <http://www.lgbti-era.org/sites/default/files/pdfdocs/0343%202017%20ENG%20Being%20LGBTI%20in%20Eastern%20Europe%20Bosnia%20and%20Herzegovina%20National%20Report.pdf>

⁵¹ Intersex Research Study, UNDP, 2017, p. 32: <http://www.lgbti-era.org/sites/default/files/pdfdocs/Intersex%20Research%20Study-ENG.pdf>

56. CSO Sarajevo Open Centre research from 2016 clearly states that the so-called sex normalisation surgeries are performed in some public health institutions – the medical and surgical treatment of new-borns governed by the need to aesthetically adjust the appearance of the baby and its sex characteristics to male or female sex regardless of the fact that the baby’s health is not jeopardised. A great number of intersex people, but also medical professionals, are advocating that any aesthetic medical procedure should be postponed until the moment when children can provide their informed consent⁵².
57. In 2016, the House of People of the BiH’s Parliamentary Assembly and by both chambers of the bicameral assembly, adopted amendments to the anti-discrimination law to include sex characteristics. This is the first country in the South-East Europe region that has recognized sex characteristics as grounds for discrimination in its anti-discrimination legislation and thus provides protection for intersex people. However, the implementation of this provision is still to be proven in practice⁵³.

Support to the CSOs working on the Protection of LGBTI Women

58. According to the State Report, in 2016, the budget of the The Gender Equality Agency of the Ministry of Human Rights and Refugees of BiH allocated 50.000 KM to non-governmental organizations for projects contributing to more effective prevention and protection of victims of gender-related violence, with particular emphasis on support to vulnerable groups, focusing, among other, on a multidisciplinary approach to protecting victims prevention through raising public awareness, youth education, and testing perception of violence against women in rural areas⁵⁴. There is no information that CSOs working on rights of LGBTI women received such funds.
59. The State report states that by the end of 2016, implementation of BiH Gender Action Plan was mostly financed from the funds of Financial Mechanism for the Implementation of the Gender Action Plan of BiH (hereinafter: FIGAP). In April 2016, the Council of Ministers of BiH adopted the Information on final evaluation of FIGAP programme, acknowledging its efficiency and sustainability in terms of achieving goals and objectives. FIGAP provided support for around 65 institutional projects and 80 NGO projects implemented in partnership with institutions at levels of government. Gender institutional mechanisms have provided professional and technical support to the institutions implementing projects⁵⁵. There is no information that CSOs working on rights of LGBTI women were included in this programme.
60. According to the State Report, The Gender Equality Agency of the Ministry of Human Rights and Refugees of BiH in cooperation with entity gender centers, drafted FIGAP II Program Proposal (2017-2021) and Swedish SIDA expressed readiness to provide financing. CSOs are marked as one of the key role players in the process⁵⁶. There is no information that CSOs working on rights of LGBTI women were included in this process.

⁵² 2018 Pink Report: Annual Report on the State of Human Rights of LGBTI Persons in Bosnia and Herzegovina, 2018, p. 37:

<http://soc.ba/site/wp-content/uploads/2018/05/Pink-Report-2018.pdf>

⁵³ Intersex Research Study, UNDP, 2017, p. 33: <http://www.lgbti-era.org/sites/default/files/pdfdocs/Intersex%20Research%20Study-ENG.pdf>

⁵⁴ The State report, par. 101.

⁵⁵ The State Report, par. 17.

⁵⁶ The State Report, par. 18.

List of Recommendations

61. Based on the content of this submission, the following recommendations are made, which we hope the Committee will consider in urging Bosnia and Herzegovina when it comes to the position of LGBTI women:
- 61.1. **Within the next reporting cycle, ensure that sexual orientation, gender identity, gender expression, sex characteristics and multiple discrimination are included as protective grounds from discrimination across Bosnia and Herzegovina by amending, *inter alia*, Law on Gender Equality, Law on Foreigners and Law on Asylum of Bosnia and Herzegovina, as well as Labour Law of Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District and secure adequate implementation of the current legal framework protecting lesbian, bisexual, trans and intersex women;**
 - 61.2. **Within the next reporting cycle, adopt legal provisions to introduce registered partnership for same-sex couples with no discriminatory requirements in comparison to heterosexual couples, as well as medically assisted fertilization and right to foster care and adoption for *all* women, including lesbian, bisexual, trans and intersex women;**
 - 61.3. **In line with Sustainable Development Goals (SDGs) 5 and 10 and Agenda 2030, include *all* women and girls in Bosnia and Herzegovina in national, entity, cantonal and local policy frameworks related to women and girls, secure sustainable core and operational funding and participation in decision making processes for civil society organisations working with lesbian, bisexual, trans and intersex women and girls and introduce data collection on the basis of sexual orientation, gender identity, gender expression and sex characteristics;**
 - 61.4. **Within the next reporting cycle, introduce effective institutional response to hate crime, hate speech and intolerance against *all* women and girls, including lesbian, bisexual, trans and intersex women, such as, *inter alia*, public campaigns, effective investigation and judicial processes and protective and rehabilitation mechanisms for victims and witnesses;**
 - 61.5. **Within the next reporting cycle, introduce effective legal and policy measures to combat violence and discrimination within educational system against *all* women and girls, including lesbian, bisexual, trans and intersex women and eliminate discriminatory content in textbooks;**
 - 61.6. **Within the next reporting cycle and in cooperation with civil society organizations working with trans individuals, introduce precise legal and policy measures on legal gender recognition and trans affirming healthcare, based on person's self-determination and in line with international standards and best practices;**
 - 61.7. **Within the next reporting cycle, prohibit the performance of unnecessary surgical or other medical procedures on intersex children before they reach the legal age of consent, ensure provision of adequate medical, psychological and social support to intersex persons and their families and establish adequate protocols and annual data gathering on intersex related diagnosis and medical interventions in state medical centres and private practices.**

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