



EUROPEAN  
COMMISSION

## **EU Enlargement Strategy 2015 - 2016**

LGBTI Excerpts

## Albania<sup>1</sup>

The first shelter for **lesbian, gay, bisexual, transgender and intersex (LGBTI)** persons opened in Tirana in December. In May, parliament approved a resolution on the protection of rights and freedoms of persons belonging to the LGBTI community, which calls for an action plan, legislative amendments and other measures in support of LGBTI persons, and made the Ombudsman responsible for monitoring its implementation. The international day against homophobia, transphobia and biphobia was celebrated in May with a number of awareness raising events but public awareness remains low. Albania was one of the signatories of the joint statement of Ministers of the region at the 2015 IDAHO forum. The second Tirana pride event was held in June without major incidents. Discrimination against transgender and intersex persons need to be removed from the legislation.

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<sup>1</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_albania.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf)

## Bosnia and Herzegovina<sup>2</sup>

On **non-discrimination** policies, no steps were taken to develop an anti-discrimination strategy at State level. The anti-discrimination law has not been amended to include age and disability as grounds for discrimination, nor have its provisions been adequately reflected or transposed into labour law or higher education. A working group, co-ordinated by the Ministry of Human Rights and Refugees and tasked with the revision of the antidiscrimination law was formed in August. Implementation of the 2009 anti-discrimination law is hampered by procedural hurdles and low levels of knowledge of the law. A total of 144 judicial cases of discrimination were pending as of August. Hate crime and hate speech are not covered by the Federation's criminal law. Most hate incidents targeted returnees, LGBTI persons or were ethnically motivated. Information about hate crime acts is not systematically collected or tracked.

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On the rights of **lesbian, gay, bisexual, transgender and intersex (LGBTI)** persons, the 2015 LGBTI Merlinka festival was held with no incidents and with appropriate police protection. Bosnia and Herzegovina was one of the signatories of the Joint Statement of Ministers of the region at the 2015 IDAHO (International Day against Homophobia) forum. The anti-discrimination law needs to be amended as it does not include a clear definition of gender identity and sexual orientation and refers to sexual expression and/or orientation as grounds of discrimination. The Republika Srpska and Brčko District criminal codes need to be amended to include gender identity and sexual orientation as grounds for hate speech. Despite an increase in violence, attacks and threats towards LGBTI persons and human rights defenders, only a limited number of cases are reported to the police. In September, Bosnia and Herzegovina's Constitutional Court ruled on a violation of the freedom of assembly in the case of the October 2008 Queer Sarajevo Festival when a dozen individuals were attacked, but there has been no criminal prosecution of the attack on the 2014 Merlinka Queer Film Festival. Transgender persons are a particularly marginalised group and no measures are planned for legal gender recognition.

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<sup>2</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_bosnia\\_and\\_herzegovina.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_bosnia_and_herzegovina.pdf)

## Kosovo<sup>3</sup>

As regards **non-discrimination**, the adoption in May 2015 of the Law on the Protection from Discrimination is a major step forward. The Ombudsperson now has a mandate to act as an equality body. Hate crimes are proscribed in Art. 147 of the criminal code. The performance of Kosovo institutions in processing and investigating cases of hate speech, targeting mainly members of the LGBTI community and ethnic minorities, remains poor. The Kosovo Prosecutorial Council's tracking mechanism needs to be extended to cover cases of all kinds of discrimination, not only those based on ethnicity.

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On the rights of **lesbian, gay, bisexual, transgender and intersex (LGBTI)** persons, the package of human rights laws has addressed gaps in legislation on the protection of sexual orientation and/or gender identity. Cases of verbal and physical assaults against the LGBTI community are rarely addressed adequately by the authorities. Despite meeting regularly, the advisory and coordinating group for the rights of the LGBTI community has yet to produce concrete results. The government has started awareness-raising training for civil servants, law enforcement officials, the judiciary, media and teachers. A pride walk to mark the international day against homophobia took place for the second time in Pristina on 17 May, with no incidents. However, Kosovo's political leaders need to do more to raise awareness and promote tolerance.

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<sup>3</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_kosovo.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_kosovo.pdf)

## FYR Macedonia<sup>4</sup>

The lesbian, gay, bisexual, transgender and intersex (LGBTI) community continues to suffer from discrimination and homophobic media content. The country shows some level of preparation regarding freedom of expression. Exercising this freedom, however, is a serious problem in the current media culture and political climate, and the country continued to backslide in this area. Attempts to limit media reporting on matters of public interest are worrying.

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As regards **non-discrimination**, from its creation in January 2011 until the end of 2014, the Commission for Prevention of and Protection from Discrimination has only received 288 complaints and confirmed the existence of discrimination in 12 cases. Much greater efforts are needed to raise public awareness of the Commission's role and work. It remains understaffed and under-resourced and concerns persist about its independence. The legislative framework still needs to be aligned with the *acquis* as regards discrimination on grounds of sexual orientation. Collection of data on the reporting, investigation and prosecution of hate speech and hate crime is still not systematic and several cases of hate speech in social media and blogs require adequate follow-up by the authorities.

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**Lesbian, gay, bisexual, transgender and intersex (LGBTI)** persons continue to suffer discrimination and homophobic media content, both online and offline. A sixth violent attack occurred during the celebration of the second anniversary of the LGBTI support centre, leaving two people injured. Despite calls by civil society organisations and the international community for the perpetrators to be prosecuted, none of the attacks has yet been fully investigated. In August parliament rejected a draft amendment to the anti-discrimination legislation, which would have prohibited any form of direct or indirect discrimination on the grounds of sexual orientation and gender identity. Considerable efforts are still needed to raise awareness of and respect for diversity within society and to counter intolerance. This needs to be done through public campaigns and training of law enforcement bodies, prosecutors, judges and health workers.

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<sup>4</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_the\\_former\\_yugoslav\\_republic\\_of\\_macedonia.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_the_former_yugoslav_republic_of_macedonia.pdf)

## Montenegro<sup>5</sup>

As regards **lesbian, gay, bisexual, transgender and intersex (LGBTI)** persons, in May Montenegro successfully organised the third International Day against Homophobia (IDAHO) conference. It was attended by ministerial delegations from 21 countries and high-level participants from the government, the international community and civil society organisations. Montenegro was also one of the signatories of the Joint Statement of Ministers of the region. Montenegro was able to smoothly handle the pride parade in Podgorica in 2014; various institutional and political representatives participated and demonstrated their support. Unlike the previous year, no incidents were observed; this was also due to the rigorous security measures in place.

The rights of transgender persons were improved by the adoption in November of a protocol for legal gender recognition. Cooperation between the Ombudsman and LGBTI organisations requires improvement, as does cooperation between relevant institutions. Concerns remain over the level of homophobia, as attacks on LGBTI community members and activists continued. The lack of progress in related police investigations led to some tensions between police and the LGBTI community and few criminal convictions for attacks. Training for the judiciary and the police needs to continue. Regrettably, the police banned, for the third time, LGBTI gatherings in Nikšić, citing security reasons; prior to that, an academic debate on LGBTI issues was banned in the local university. Systematic anti-discrimination campaigns need to be rolled out in schools and universities as a matter of urgency.

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<sup>5</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_montenegro.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_montenegro.pdf)

## Serbia<sup>6</sup>

Promotion and protection of the rights of the most vulnerable and discriminated groups, including LGBTI persons, persons with disabilities, and persons with HIV/AIDS has yet to be fully ensured. Hate-motivated offences need to be properly investigated, prosecuted and sanctioned.

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Serbia's **non-discrimination** legislation is generally in line with European standards, with further alignment needed in particular as regards the scope of exceptions from the principle of equal treatment, the definition of indirect discrimination and the obligation to ensure reasonable accommodation for employees with disabilities. The action plan for the antidiscrimination strategy needs to be implemented. The office of the Commissioner for the Protection of Equality still lacks adequate premises and its capacity needs to be strengthened. The persons most discriminated against remain the Roma, lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, persons with disabilities and persons with HIV/AIDS who, together with human rights defenders, often face hate speech and threats. Instigating national, racial and religious hatred and intolerance is prohibited in the criminal code. Proper investigation, prosecution and sanctioning of hate-motivated offences remains essential.

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A number of activities have been conducted with the aim of promoting the rights of LGBTI persons. Parliament has been active in hosting events related to rights of LGBTI persons. Police officers in all regional police departments were trained on working with victims of trans-/homophobic violence. Serbia was one of the signatories of the Joint Statement of Ministers of the region at the 2015 IDAHO forum. A Pride Parade was held in Belgrade on 20 September without major incidents for a second year in a row. LGBTI persons and activists often face hate speech and threats and in some cases physical violence. There is no centralised official data on the number of crimes motivated by homophobia and transphobia. School textbooks containing discriminatory content need to be repealed. Serbia has no procedures for legal gender recognition in place, even in cases of gender reassignment. Greater political commitment to promoting a culture of respect for LGBTI persons and to ensuring non-discrimination at work, in the health sector and the education system is still needed.

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<sup>6</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_serbia.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_serbia.pdf)

## Turkey<sup>7</sup>

Non-discrimination is not sufficiently enforced, in law and in practice, and the rights of the most vulnerable groups and of persons belonging to minorities are not sufficiently upheld. Gender-based violence, discrimination and hate speech against minorities, and respect for the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons are major areas of concern.

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Regarding **non-discrimination**, there is an urgent need to adopt a comprehensive framework law on combating discrimination in line with European standards. The legislative framework on non-discrimination does not explicitly prohibit discrimination on the basis of ethnic origin, sexual orientation and/or gender identity. The Penal Code does not include hate offences based on ethnic origin. There is no database on hate crimes. No specialised body was established to promote equality, combat racism, xenophobia, anti-Semitism and intolerance and to deal with complaints from victims of discrimination. Ethnic, religious groups and groups promoting gender diversity continued to report cases of discrimination in social life and in employment. Substantial efforts are needed to enforce anti-discrimination in practice.

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Respect for the fundamental rights of **lesbian, gay, bisexual, transgender and intersex** (LGBTI) persons remains a matter of serious concern. In November 2014 the Council of State annulled the dismissal of a teacher on sexual orientation grounds. In December, a judicial decision approved the inclusion of rights of LGBTI persons in the statute of nongovernmental organisations. However, hate crimes, attacks and murders of transgender persons are a cause of deep concern. There is no specific legislation affording protection against such hate crimes. Transgender persons continued to be subject of arbitrary fines, house raids and police violence. In March 2015 the ECtHR ruled on Turkey's excessive domestic requirements for the recognition of the preferred gender. Istanbul's LGBTI pride parade in June was forbidden on weak grounds and was broken up by the police with disproportionate use of force. The armed forces' disciplinary system that defines homosexuality as a 'psychosexual disorder' and the military's medical regulation that refers to it as illnesses need significant revision. In April 2015, the Constitutional Court decided not to repeal part of a criminal provision that criminalises the depiction of sexual behaviour in 'unnatural ways'. These developments are not conducive to an atmosphere of tolerance towards LGBTI persons and their human rights.

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<sup>7</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_turkey.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_turkey.pdf)