FOR THE RECORD

Documenting violence against trans people

Experiences from the ProTrans “Protecting Transgender People from Violence” project

TGEU
Transgender Europe
Although the legal situation of trans people has recently improved in some Western European countries, as shown by the recent law changes in Malta and Denmark, which have implemented the principle of self-determination in legal gender recognition and eliminated the sterilisation requirement, trans people are still disproportionately affected by discrimination and violence in most European countries. All over Europe, trans people have problems finding a job and accessing healthcare, housing and education, and they often fall victim to transphobic violence and crimes. Mortality rates among trans people are very high, due to frequent homicide and suicide. Worldwide, a trans person is killed every day and often it is the victim/survivor who is blamed, rather than the murderer.

In April 2015, the Parliamentary Assembly of the Council of Europe (PACE) adopted a resolution in favour of paying more attention to the problem of discrimination against trans people, respecting individuals’ right to express their gender identity, encouraging fair access to medical and legal assistance in gender reassignment and raising awareness of transgender health and rights. As a member of PACE and a transgender woman myself, I strongly supported the resolution, which finally passed with two-thirds of the votes.

Preventing discrimination and violence against trans people starts by knowing the exact extent of discrimination and violence they face by documenting it, and the present project is therefore extremely valuable, in that it has monitored trans discrimination and violence in Central, Eastern and South-eastern Europe in depth over the course of two years, as a European follow-up project to Transgender Europe’s (TGEU) global Trans Murder Monitoring project. May this report contribute to a better understanding of the problem of trans discrimination and show ways of decreasing it in all countries, by contributing to not only appropriate legislation, but also measures for its implementation and the sanctioning of perpetrators of transphobic discrimination and violence.
Since 2008, Transgender Europe (TGEU) has been a pioneer in research on trans people’s lived experience of violence and crime: its Trans Murder Monitoring (TMM) project has documented 1,518 cases of murdered trans persons around the world over the past five years, including 89 in Europe. 1

INTRODUCTION

Transphobic violence has also become the focus of attention in European and international policy discussions and research in recent years. In 2012, the European Union Fundamental Rights Agency’s (FRA) LGBT survey 2 identified transgender persons as particularly vulnerable to hate crimes and unlikely to report them. One of the survey’s most shocking results is that 35 per cent of the respondents had been attacked or threatened with violence in the five years before the survey was carried out.

The results also shed light on the extent to which trans people face bias-motivated discrimination in different areas of life, including employment, education, health-care, housing and other services. Transgender respondents, as well as lesbian and bisexual women, were more likely than gay and bisexual men to have been discriminated against on the basis of their gender and sexual orientation in the 12 months preceding the survey. Furthermore, almost a third of responding trans persons felt that they had been discriminated against in their employment or job search in the 12 months prior to the survey. Every fifth transgender person also reported discrimination in healthcare settings, which rate is twice as high as among those who don’t identify as transgender.

The FRA concludes that the most frequent reasons for not reporting were a belief that “nothing would change”, a lack of knowledge about how or where to report an incident and fear of homophobic or transphobic reactions from the police.

The Organization for Security and Co-operation in Europe (OSCE) also confirmed that “homophobic hate crimes and incidents often show a high degree of cruelty and brutality. They often involve severe beatings, torture, mutilation, castration, even sexual assault. They are also very likely to result in death. Transgender people seem to be even more vulnerable within this category”. 3

At the global level, the Discrimination and violence against individuals based on their sexual orientation and gender identity (A/HRC/29/23) report issued by the Office of the UN High Commissioner for Human Rights (OHCHR) also acknowledges that gender-based violence against trans people is often particularly brutal, and in some instances characterised by levels of cruelty exceeding that of other hate crimes.

In line with the above policy developments and increasing attention to transphobic violence, TGEU has gradually been placing more emphasis on monitoring and reporting transphobic incidents in the form of discrimination, hate speech and hate crimes. By working together with LGBT and trans groups and NGOs within the framework of the ProTrans project, we wish to provide systematic and credible data in Eastern and South-eastern Europe, where evidence is scarce and anecdotal, in order to improve public policies to prevent and tackle discrimination and violence against trans people.

The present publication has been compiled within the framework of the ProTrans project, initiated by TGEU in 2013. This collaborative undertaking has aimed to better protect trans people and their communities in Central, Eastern and South-eastern Europe against violence and impunity. To this end, five trans-rights organisations have worked with TGEU in a two-year project to increase their capacities in monitoring, victim support and advocacy.
The ProTrans project

• Gayten-LGBT, Serbia (http://www.transserbia.org/)
• GENDERDOC-M, Moldova (http://www.gdm.md/)
• Labrys Kyrgyzstan, Kyrgyzstan (http://www.labrys.kg)
• Red Umbrella Sexual Health and Human Rights Association, Turkey (http://www.kirmizisemsiye.org/)
• Transvanilla Transgender Association, Hungary (http://www.transvanilla.hu/)

The project started with the development and implementation of a systematic but simple online system to monitor transphobic incidents in an inclusive process by participating trans-rights organisations and TGEU.

The monitoring form was drafted in three in-person meetings with ProTrans project partners and TGEU member organisations’ representatives from:

• ACCEPT Association, Romania (http://www.accept-romania.ro/)
• Trans Aid Croatia, Croatia (http://www.transaid.hr/)
• MIT - Movimento Identità Transessuale, Italy (http://www.mit-italia.it/)
• TransInterQueer e.V., Germany (http://www.transinterqueer.org/)

In conjunction with the monitoring, project partners offered community-based support services for victims and survivors of violence and increased legal literacy about possibilities for redress within the trans community. The project provided local partners with the necessary means to pursue legal action and use domestic redress mechanisms.

After analysing the results of the joint data collected, TGEU and partners engaged in evidence-informed advocacy to increase public awareness of domestic authorities’ responsibility to provide appropriate responses and to address European stakeholders (policy makers, equality bodies, human-rights NGOs and journalists) in order to make them aware of the systematic maltreatment faced by transgender persons (read more in the “Mobilisation strategies against transphobic violence in ProTrans” chapter). The present publication also forms part of the advocacy efforts undertaken in ProTrans.

MONITORING: FOCUS ON HATE CRIMES

In order to provide firm data for governments, international bodies, local authorities or any other stakeholders, the data collected are compatible with national data-collection standards and legal categories in use. Because criminal codes, anti-discrimination laws and other legal instruments vary greatly between jurisdictions, it was impossible to apply uniform definitions of discrimination, various types of crimes or hate speech in a single multi-country database. Therefore, partners used a common classification system to determine the category of the transphobic incident in question, which is also in line with the OSCE’s Office for Democratic Institutions and Human Rights (ODIHR) standards.

Types of LGBTI-phobic hate incidents. The source of the table is:

Hate crimes: Actions that are crimes according to the national criminal law in most European countries.

<table>
<thead>
<tr>
<th>Category</th>
<th>Subcategory</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homicide (murder)</td>
<td>Any attack on a person that causes loss of life.</td>
<td></td>
</tr>
<tr>
<td>Extreme physical violence</td>
<td>Serious bodily harm</td>
<td>Any attack on a person that potentially causes serious physical harm.</td>
</tr>
<tr>
<td>Sexual assault</td>
<td>An act of sexual violence, including rape and sexual exploitation and sexual harassment, requests for sexual favours and other verbal or physical conduct of an sexual nature.</td>
<td></td>
</tr>
<tr>
<td>Assault</td>
<td>Any physical attack against a person that does not pose a threat to their life.</td>
<td></td>
</tr>
<tr>
<td>Damage to property</td>
<td>Attack against property, including desecration</td>
<td>Any physical attack directed against property that is not life-threatening.</td>
</tr>
<tr>
<td>Arson</td>
<td>Arson attacks on property where there is no threat to life, for instance if the building is uninhabitable at the time of the attack. Failed attempts for instance attempted arson where the fire fails to catch or the arsonist is disturbed.</td>
<td></td>
</tr>
<tr>
<td>Threats and psychological violence</td>
<td>Any clear and specific threat, whether verbal or written. If the threats are not clear and specific, the incident should be recorded as “Abusive behaviour”. Includes stalking (repeated undesired contact), blackmailing, restriction of freedom (e.g. locking up a person), defamation, such as outing the LGBTI identity, bullying (e.g. at school, at workplace).</td>
<td></td>
</tr>
</tbody>
</table>

Hate speech and discrimination: These incidents may or may not qualify as crimes under national law. They are elements of a LGBTI-phobic context, as a result of which it is important to monitor them.

Hate speech

<table>
<thead>
<tr>
<th>Public hate speech</th>
<th>Verbal or written abuse in public, e.g. by a politician.</th>
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</thead>
<tbody>
<tr>
<td>Cyber Hate</td>
<td>Hate speech channelled via the internet and/or social media.</td>
</tr>
<tr>
<td>Abusive behaviour</td>
<td>This type of behaviour may often fall short of constituting a criminal offence. Includes verbal abuse, whether face-to-face or via telephone or phone messages and written abuse (including mobile-phone text messages, graffiti and targeted letters that is, those written for, sent to or about a specific individual).</td>
</tr>
<tr>
<td>Abusive literature and music</td>
<td>Mass-produced abusive literature or music that is sent to more than one recipient. Covers mass mailings rather than individual cases of hate mail, which fall under the “Abusive behaviour” or “Threats” categories, depending on the content.</td>
</tr>
</tbody>
</table>

Discriminatory incidents

Any form of discriminatory incidents that are not considered a crime.
The ProTrans project

The ProTrans project

The ProTrans partners relied on various data sources when monitoring incidents (victims, witnesses, police, media, NGOs, etc.). Because the project attempted to produce credible data, it has been essential that the data collected is based on direct evidence as much as possible. Therefore, reports that came to partners’ attention have been verified to the greatest possible extent; e.g. besides the victim’s reports or media articles, witnesses have been asked about their perceptions, if any. The main source of information was victims’ and media reports (note that some cases were verified through multiple sources of information).

Hate-motivated incidents differ from other forms of crimes in that they target a whole group by selecting individual victims on the basis of their (perceived) membership in that group. These incidents thus have a profound impact on entire communities. In order to highlight this aspect and the affectedness of the trans community, care has been taken to document the bias aspect of the crime. In the documented cases, several indicators suggested that bias was involved when the perpetrator committed the act (e.g. offensive language used, offender characteristics, location and timing of the act, etc.). In many cases, especially those involving trans sex workers, multiple forms of bias were present.

The online monitoring system

The development of the monitoring tool has been supported by HURIDOCS, an international NGO that helps human-rights organisations use information technology and documentation methods to maximise the impact of their advocacy work. HURIDOCS develops tools and techniques and provides advocates with customised training and support.

The tool developed is a customised form in OpenEvsys, a free and open-source software application that human-rights NGOs use to record and analyse information on human-rights violations. The form, which records information on the transphobic incident by capturing important aspects of the incident itself, the victim, the perpetrator and the follow-up actions after the incident took place, aimed to be comprehensive, while making it possible to record only key facts in the event that there is no detailed and/or first-hand information available on a case, e.g. the source of information is the tabloid media. Therefore, users can choose how detailed to make the information they collect, depending upon the data available and existing resources for data entry.

Several security measures make OpenEvsys a secure tool for trans human-rights defenders to use:

- TGEU’s monitoring tool aims to ensure the greatest degree of confidentiality of victims with enhanced security measures, e.g. no storage of names.
- It is hosted with an encrypted https:// account, and an external analysis has shown that its code is secure.
- OpenEvsys allows the creation of different types of users who have access to all or parts of the database.
- Furthermore, users can mark cases as confidential so that they can only be accessed by themselves and other users selected by them.
- OpenEvsys contains two features to further enhance security that can be set up by individual users: Google Authenticator, which requests a 6-digit code available on the user’s smartphone, and Yubikey (http://www.yubico.com/), which works with a physical authentication device that is slotted into the USB slot of the computer used.
- In addition, ReCaptcha, which protects against attempts by automated software to obtain access to the database, can be set up for all users under the Admin-System settings.

TGEU’s guidelines on monitoring transphobic violence is available: http://www.tgeu.org/pro-trans/
The ProTrans project

IMPLEMENTING ORGANISATIONS

Transgender Europe (TGEU) is a charitable non-governmental human-rights network that works for the protection of trans persons’ human rights. TGEU has 78 member organisations in 40 countries in Europe, including Eastern Europe and Central Asia. The mission of TGEU is to work for the improvement of the situation of trans people across Europe. Since 2005, we have combined advocacy work aimed at European institutions with work at the national level, in partnership with our members, and with and for local communities. Our key activities are as follows. 1) Human-rights Advocacy: TGEU raises awareness of trans issues and the human-rights violations faced by trans persons among decision-makers, policymakers and civil society at the European and international levels. We advocate for better protection from violence, access to healthcare and quick, accessible and transparent legal gender recognition at the international level and, together with our members, at the national level. 2) Capacity Building: we regularly train our members in organisational development and provide research data, advocacy tools and direct support to trans-rights organisations in Europe. 3) Through the Transrespect versus Transphobia (TvT) project, TGEU has gained extensive experience in empowering peer research and training at the global level.

GENDERDOC-M Information Centre is Moldova’s only community-based LGBT advocacy organisation. Established in 1998, it has grown into a reputable organisation that works nationally and regionally, and is considered a resource centre for other LGBT organisation in former Soviet countries. GENDERDOC-M provides free direct informational, psychological, legal, support and health services to the local LGBT community, families of LGBT people and other stakeholders, and it works extensively with various professional groups. One of its core activities is strategic litigation in the areas of hate speech, bi-as-motivated violence, discrimination and legal gender recognition.

“The main impact of the ProTrans project on GENDERDOC-M is that the organisation has finally expanded its activities with and for the trans community, thereby making itself a more trans-inclusive and trans-sensitive organisation, thanks to the increased outreach to trans and gender-nonconforming people. Of course, this is the minimum any organisation claiming to work for the entire LGBT community should meet. However, it becomes quite challenging to meet this minimum when there’s no staff member or volunteer who identifies as trans or gender-nonconforming. A lot of work needs to be done for trans people by GENDERDOC-M, including ensuring the adoption of a legal gender-recognition mechanism based on modern human-rights standards and the availability of adequate trans healthcare. It is clear that this work cannot be done without the direct participation of trans people themselves, and this is what we are working on now in Moldova.”

Jelena Vidić
Website: http://www.transserbia.org/
Email: gayten@gmail.com

Gayten-LGBT, founded in Belgrade in 2001, is the first all-inclusive LGBTIQ organisation in Serbia, and the first organisation in Serbia to acknowledge and base its work primarily on gender identity and expression, and not only on sexual orientation. Besides working directly with beneficiaries through its various services – an LGBTIQ helpline, a trans-support group, and peer, legal and psychological consultations, both in-person and online – Gayten-LGBT also works with various stakeholders on gender-identity, trans, intersex and queer issues. In 2013, Gayten-LGBT presented a model law on gender identity intended to promote the rights of trans people, and it is currently advocating for its adoption in Serbia’s National Assembly.

"The ProTrans project provided Gayten-LGBT with the opportunity to focus on monitoring hate crimes and discrimination against trans people in Serbia in a more systematic way, and to develop an online monitoring tool and database to record and analyse those incidents. The data collected through the project has been communicated to stakeholders as part of our advocacy for the adoption of the gender-identity law, as well as to raise awareness of the situation of trans people in Serbia.”

Jelena Vidić
Website: http://www.transserbia.org/
Email: gayten@gmail.com

Artiom Zavadovsky
Website: http://www.gdm.md/
Email: info@gdm.md

The ProTrans project

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Labrys, a grassroots LGBTIQA organisation, was established in Kyrgyzstan in 2004 to protect and promote the LGBTIQA community’s rights and freedoms in the country and Central Asia more broadly.

“ProTrans has helped Labrys build new partnerships at the international level. The Fifth European Transgender Council has also been extremely fruitful in helping us establish a new group in Kazakhstan, Almat-TQ, which Labrys provides with resources and support”.

Sanjar Kurmanov
Website:  http://www.labrys.kg
Email:  kyrgyzlabrys@gmail.com

Transvanilla Transgender Association (TV) was launched in Hungary in 2008 as an informational website for those seeking legal gender recognition and trans-specific healthcare in the country. At first, it was an online information portal and community support group. Beginning in 2010, monthly meetings were held, with lectures by experts and thematic discussions, which became the main activity of the community. Some of those who attended these meetings regularly founded the organisation in November 2011 in order to advocate for transgender people in all walks of life. Since then, TV has been trying to gather facts it can use in its advocacy. Before ProTrans, Transvanilla worked primarily on legal gender recognition and access to healthcare because the requests with which trans people approached it involved these issues.

“ProTrans project has helped us improve our capacity to monitor human-rights violations against trans people in Turkey. Using the tools we have produced within the scope of the project has enabled us to carry out systematic advocacy and lobbying while mobilizing the trans community to pursue their rights through legal channels.”

Kemal Ördek
Website:  http://www.kirmizisemsiye.org/
Email:  kirmizisemsiye@kirmizisemsiye.org

Red Umbrella Sexual Health and Human Rights Association “Kırmızı Şemsiye” is a sex-worker-led non-governmental organisation founded in Turkey in 2013, and a member of the regional networks the International Committee on the Rights of Sex Workers in Europe (ICRSE), the Sex Workers’ Rights Advocacy Network (SWAN) in Central and Eastern Europe and Central Asia and TGEU. The board of Kırmızı Şemsiye is composed solely of sex workers. The majority of its members are also sex workers, but the membership also includes allies, including lawyers, students and activists.

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Email:  kirmizisemsiye@kirmizisemsiye.org

ProTrans Voices

Hungary:

“My personal experience is that individual trans people’s lack of legal awareness is based not only on a lack of information, but also on their fear of being defenceless and humiliated. It is therefore important that individuals should not act and stand up for their rights on their own. Instead, the organisation should provide support and assistance (with the assistance of a lawyer or a paralegal person) in their cases.”

Bea Bodrogi, lawyer working with Transvanilla

“Trans people are second-class citizens because there is no legal measure to address the specific legal issues that affect them. In the past decade, lawmakers have imposed restrictive conditions on the legal gender-recognition process in the law on registries (namely, the divorce requirement and the fact that the change of a parent’s name and gender cannot be recorded on the child’s birth certificate). At the same time, the established procedure has never been published in any way, and there is a total lack of legislation.”

Kristzina Kolos Orban, Monitoring Officer at Transvanilla

“People who are often exposed to danger, especially transgender people, face constant discrimination even in the process of trying to seek redress for discrimination. Victims of verbal or physical violence are forced to endure psychological violence and humiliation from law-enforcement bodies from the moment they file a report. There is also a high degree of distrust towards governmental agencies within the communities”.

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“The introduction of legislative initiatives aimed to limit human rights always results in the growth of aggression and hatred in society. The government of Kyrgyzstan, as well as its President, who is the guarantor of Kyrgyz Constitution, must publicly condemn the demonstration of any kind of hatred in society, and withdraw all initiatives that weaken the human rights of any group in society.”

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The ProTrans project

Moldova:
“Trans people are invisible in Moldova. Homophobic and transphobic attitudes on the part of the majority keep trans people invisible in our country. This situation is upsetting and needs to be changed. Moldova is a patriarchal society in which being a woman is less valuable than being a man. However, being an out gay man or an out trans man is even harder than being a cisgender heterosexual woman. Most people do not know what it means to be a trans person, and the existing information about trans people is usually full of stereotypes and prejudices. We have to work to change the narratives about trans people by giving them a voice and creating a safe public space that is trans people’s space, too.”
Victoria Apostol, Co-founder of the Feminist Initiative Group

Serbia:
“No matter where the person comes from and no matter how old they are, their first thought is always that they are the only one who has ever had their specific problem.”
Kristian Randjelovic, Coordinator, Multiple Discrimination, Trans Programme and Member of TGEU’s Steering Committee

The MANIFEST FORMS OF TRANSPHOBIC VIOLENCE

Boğlarka Fedorko joined TGEU in February 2014 as the project manager of the ProTrans project. She is passionate about human rights and has been active in diverse fields, such as international education-inclusion projects, Roma-rights advocacy and sex-worker empowerment. Prior to working at TGEU, she developed and managed projects at the Open Society Foundations and various grassroots organisations in Hungary. She has experience in advocacy, training delivery and capacity-building work at the national, European and UN levels, including on gender-based violence, HIV/AIDS, sexual and reproductive rights and the decriminalisation of sex work.

What we have seen during the course of the project is that there are numerous cases of direct violence that are not even considered as such by members of the trans community. However, these instances of violence are just the tip of the iceberg: underlying them in all of the countries in which ProTrans was implemented are more subtle, but not less damaging, manifestations of structural, institutional and societal violence.

Trans people around the world face multiple types of violence: structural, institutional, societal and direct violence. Structural violence is violence that is inscribed in the very social structures in which trans people live, produced and maintained by ideologies of gender and sexuality and relationships of power that collude to restrain agency. Transphobia can be institutional, reflected in policies, laws and institutional practices that discriminate against transgender people. It can be societal, which is reflected in rejection and mistreatment of transgender people by others. Finally, it can manifest in direct transphobic incidents and hate crimes specifically targeted at trans people. The present publication demonstrates the ways in which trans people are subject to all these forms of violence in the five countries in which the ProTrans project was implemented.
Structural and institutional violence

When we think about violence against trans people, we often link transphobia with murder, rape, psychological threats, emotional abuse, and the direct and intentional use of force. However, structural violence, violence that is part of everyday life and social interactions, does not always appear as violence as such, but is subtly woven into the fabric of the ordinary, resulting in no less negative consequences than direct violence and transphobia. Structural violence is a form of violence resulting from and perpetuated by hierarchical, unjust and oppressive social systems and relationships, e.g. conservative gender roles and the logic of the economic system. Structural violence often remains unquestioned and unchallenged because it is so deeply embedded in social arrangements: it goes unnoticed and unrecognised, and it thereby contributes to the marginalisation of trans people. Several cases of institutional violence have been documented through the ProTrans project. The most common locations in which institutional violence has been found include medical facilities, police stations, municipal administrative offices and state registrars.

For the record

1. A trans man was discriminated against and verbally attacked by two members of the National Health Insurance Fund’s medical commission. The two female doctors insulted the victim because of his sexual orientation and gender identity and refused to give him the documents necessary for sex-reassignment surgery. They said that people like him should not be allowed to receive any medical care, and that they should be deported from the country. (Serbia)

2. A trans man was asked by the border-control officer, as he always is when he tries to leave the country, why he was seeking asylum and not to comply. No drugs were found. Finally, the commandant refused him permission to fly abroad on the basis that he could be a criminal. (Kyrgyzstan)

3. In March 2015, a 22-year-old self-identified androgynous person from Ukraine, who has been seeking asylum in Moldova on the basis of the war in Eastern Ukraine since February 2015, was subjected to degrading and humiliating treatment from a female doctor he had gone to see for treatment from a female doctor he had gone to see for a refugee medical certificate due to his feminine gender expression. When he took off his shirt and the doctor saw his male genitalia, she called him a “hermaphrodite” and asked him to present his own ID. He was asked to sit and wait. Ten minutes later, the police arrived because the bank had informed them of document forgery. (Hungary)

Societal violence

Societal violence manifests in the rejection and mistreatment of transgender people by others, including discrimination and hate speech. These incidents may not qualify as crimes under domestic legislation, but they are elements of a transphobic social climate, which is why ProTrans partners found it important to monitor them. Of the 48 cases of discrimination documented by ProTrans, approximately half of the incidents took place in institutional settings and involved state employees (see above), while the other half were committed by private individuals, neighbours, co-workers and employers.

For the record

1. A trans man wanted to put money into his grandfather’s bank account. Because his ID identified him as female, he was asked to present his own ID. He was asked to sit and wait. Ten minutes later, the police arrived because the bank had informed them of document forgery. (Hungary)

2. A trans man went to the post office to make a payment. He believed that almost all employees were familiar with his case (he has not changed gender marker or name on his ID). The employee told him he could not use another person’s payment card. He explained that they were his card and ID. She looked at him with surprise, but continued to work. However, when she was about to make the payment, she told him that there was a problem with the card and called another colleague to help her. They looked at his payment card and ID and informed him that it was not possible to make the payment because his card had expired. He ordered another one. However, when the new card arrived, he was unable to use it because the old one was still active (not expired). (Serbia)

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Hate speech also constitutes societal violence because it misrepresents trans people. Several incidents of public and cyber hate speech were documented, with the majority of cases being linked to Conchita Wurst’s (a drag artist) winning of the 2014 Song Contest. Hate speech after Conchita’s win was also committed by politicians: there were four such cases in Hungary and one in Moldova.

In Serbia, the influential Archbishop of the Serbian Orthodox Church publicly stated that the terrible floods in Serbia were a result of Europe’s “celebration of Conchita Wurst”. A hate crime committed in Serbia was also based on gender identity. (Kyrgyzstan)

Transphobic hate crimes

Hate crimes are criminal acts motivated by bias or prejudice towards particular groups of people, and they can be based, inter alia, on gender, gender identity, sexual orientation, ethnicity, religion, age or disability. Hate crimes are often the most visible manifestation of hatred towards the trans community. A hate crime comprises two distinct elements:

- It is an act that constitutes an offence under the criminal law, irrespective of the perpetrator’s motivation; and
- In committing the crime, the perpetrator acts on the basis of prejudice or bias.

Other forms of violence, including structural, institutional and societal violence, often precede, accompany or provide the context for hate crimes. Several indicators might suggest that bias was involved when the perpetrator committed the act (e.g. offensive language, the characteristics of the offender, a history of previous hate crimes, etc.).

<table>
<thead>
<tr>
<th>Bias indicators</th>
<th>Questions that can help determine if a bias indicator is present</th>
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<tr>
<td>Victim perception</td>
<td>Does the victim perceive that the incident was motivated by bias?</td>
</tr>
<tr>
<td>Victim perception</td>
<td>Keep in mind that the victim does not necessarily understand that she may have been victimized in a bias-motivated attack. Victims often search for other reasons to explain an attack because their sexual orientation, gender identity or gender expression represents an aspect of themselves that is not generally possible to change.</td>
</tr>
<tr>
<td>Wellness Perception</td>
<td>Does the witness perceive that the incident was motivated by bias?</td>
</tr>
<tr>
<td>Wellness Perception</td>
<td>Victim perception and wellness perception may be different. Both need to be considered.</td>
</tr>
<tr>
<td>Difference between suspect and victim in terms of sexual orientation, religion, ethnic/national origin, gender, sexual orientation, etc.</td>
<td>Do the suspect and victim differ in terms of sexual orientation, gender identity or gender expression?</td>
</tr>
<tr>
<td>Location and/or timing</td>
<td>Was the victim or near an area or place commonly associated with or frequented by members of the LGBTI communities (e.g. an LGBT bar, venue)?</td>
</tr>
<tr>
<td>Location and/or timing</td>
<td>Did the incident happen near locations related to the perpetrator’s group (e.g. headquarters of extremist organizations) or any hot spots for hate crimes?</td>
</tr>
<tr>
<td>Language and word usage, including written statements, gestures, graffiti, visible signs, visible signs of the suspect</td>
<td>Did the suspect make comments, written statements or gestures regarding the victim’s background?</td>
</tr>
<tr>
<td>Language and word usage, including written statements, gestures, graffiti, visible signs, visible signs of the suspect</td>
<td>Were drawings, markings, symbols or graffiti left at the scene of the incident?</td>
</tr>
<tr>
<td>Language and word usage, including written statements, gestures, graffiti, visible signs, visible signs of the suspect</td>
<td>Did the suspect wear any visible sign (tattoo, clothes, hairstyle) to deduce his/her membership to a specific group opposed to LGBTI communities?</td>
</tr>
<tr>
<td>Organised hate groups</td>
<td>Were objects or items left at the scene that suggest the crime was the work of paramilitary or extreme nationalist organisations?</td>
</tr>
<tr>
<td>Organised hate groups</td>
<td>Is there evidence of such a group being active in the neighbourhood?</td>
</tr>
<tr>
<td>Organised hate groups</td>
<td>Did any organized hate group claim responsibility for the crime?</td>
</tr>
</tbody>
</table>

Types of bias indicators. The source of the table is: http://ilga-europe.org/sites/default/files/Attachments/types_of_crimes_bias_indicators.pdf
One-hundred and fifty-five hate-motivated incidents have been collected in the framework of ProTrans, of which 101 constitute criminal acts.

Perpetrators belong to numerous groups, the most common being private individuals, public officials and police officers and organised hate groups and gangs. The groups to which the perpetrators in the reported incidents belong are a result of several factors, including the profile of partner organisations, the trans sub-communities they reach and the type and nature of violence that is most prevalent among these segments of the community.

Several instances of police violence were registered in Turkey, Serbia and Kyrgyzstan during ProTrans. In the incidents, which involved physical and sexual assault and psychological violence at the hands of the police, the majority of the victims were trans-women sex workers (in 20 instances). Only in one case in Turkey was the victim a trans man: he was arrested at a demonstration by several police officers, who attacked him physically while using transphobic language.

For the record
1. When the police were called to provide help when the members of the radical nationalist Kalys and Kyrk Choro movements illegally broke into an event organised by Labrys on the International Day against Homophobia and Transphobia in 2015, all participants were taken to the police station by force. The police tried to make some participants show them their genitals so that they could identify the transgender people among them. (Kyrgyzstan)

2. In several cases, the police abused their power and arbitrarily detained, blackmailed and sexually assaulted trans sex workers. (Kyrgyzstan)

3. A trans-woman sex worker was detained by the police while she was working on the street. She was taken to the police station and forced to take an HIV test. In the process, she was subjected to ill treatment and transphobic language, and she was prohibited from using the female washroom at the police station. (Turkey)

4. In one case, the police incited others to act violently against the victim by stopping cars passing by and saying "take her and do whatever". On various occasions, the police refused to make a report of previous hate-motivated attacks. (Turkey)

5. A trans sex worker wanted to work on Mirac Kandili, an Islamic holy night. Some people said to her: "How dare you do this job on a holy night?" As a result, she went to another street, where she was beaten by three people. Her head was heavily injured. The police came, and the victim got in the police car, but the officers did not want to help her because she was a trans woman, and they did not draw up a report of the incident. When she was taken to the hospital, health personnel refused to treat her and she was humiliated by the staff. (Turkey)

6. Seven trans sex workers were beaten by the police while working on the street. The police told the women not to work on that street. They used pepper spray against them and took them to the police station. Other police officers asked why the trans women were brought to the station. No official record of the incident was made. (Turkey)

Gangs and organised hate groups are the second most frequent abusers in the documented cases. Attacks by organised hate groups occurred in Moldova and Kyrgyzstan (see country chapters).

For the record
1. Upon leaving a club with friends at 3 a.m., the victim was singled out, harassed, chased, kicked and beaten by a group of five men. The victim says she saw the desire to kill in the eyes of the perpetrators. (Serbia)

2. Two trans sex workers working in Topkapi were attacked with a petrol bomb by unknown men whose faces were covered with black veils. The victims took refuge in a hotel, and they are in good health. (Turkey)

It is striking that there are quite a few cases of domestic violence. Seeking help can seem like an insurmountable task for trans victims of intimate partner/dating/sexual violence, due to both the lack of appropriate services and the risk that, were they to report the crime, their abusers could out them as trans, thus subjecting them to further transphobic abuse.
The ProTrans project

Mobilisation strategies against transphobic violence in ProTrans

Because violence is part of everyday life, mobilisation against it is centred on ordinary lived experiences. Whether that resistance is located in a city, a prison or a university, whether it takes the form of movement and community building or providing support to trans people, it is persistent and strategic, and it sometimes goes unnoticed by the broader society. In other cases, resistance is organised and public, and it actively engages public discourse, legal systems and institutional power.

ProTrans has seen several forms of resistance unfolding prior to, during and beyond the project period. Partners have provided legal and psychosocial support to community members who were confronted with different types of direct discrimination and violence and challenged structural and institutional violence that affects the entire trans community. They organised community meetings to define anti-violence strategies, used the arts to reach out to the wider public and educate them on trans issues and engaged with civil society and international human rights bodies to gather support for their cause. The following examples provide illustrations of the various advocacy tools partners capitalised on during ProTrans.

Transvanilla in Hungary joined an initiative run by the Ebony African Organisation called the Coalition against Hate Violence in Hungary. The project has initiated a wide range of collaboration and cooperation strategies among different minorities in order to fight hate crimes and provide help to victims of hate incidents. For Transvanilla, joining the coalition was an important step in fostering long-term and widespread attention to trans cases and issues. Several of the organisations involved in the project have offered their already existing services to trans victims of violence. Apart from its already established services, including psychosocial help, informational and legal counselling, Transvanilla has been able to refer victims to free psychological care and legal assistance by participating in this coalition.

In the hostile environment of Kyrgyzstan, Labrys chose to mobilise international support to have the Gay Propaganda Bill, which would have criminalised the promotion of LGBTI rights, withdrawn. Labrys submitted a shadow report to the UN’s Committee on the Elimination of Violence against Women (CEDAW), which included information about institutionalised government discrimination against LGBTI people in areas such as the legal recognition of transgender people, hate speech and crimes against LGBTI communities, as well as everyday rights violations faced by LGBTI people at the hands of state institutions—law enforcement agencies, medical institutions, civil registry offices and border services. The document details violent incidents against trans people collected through the ProTrans monitoring process. The Committee addressed the situation of at-risk groups, including transgender women, in its Concluding Observations to the government of Kyrgyzstan and recommended that the state ensure access to sustainable and non-discriminatory services, such as shelters, sexual and reproductive health services, legal aid and counselling and employment for all women, in particular women facing intersecting forms of discrimination, and that it protect them from violence, abuse and exploitation. Furthermore, it urged the state to finalise and adopt an expeditious, transparent and accessible official procedure for trans women to change their gender marker on their identity documents.

GENDERDOC-M in Moldova focused on strengthening its outreach to the trans community. It held eight bimonthly meetings on various topics, including transphobic violence for the trans community, facilitated a movie screening and discussion, and it, on the occasion of the International Transgender Day of Remembrance, organised another movie screening and supported the trans solidarity flashmob held on the occasion of the International Transgender Day of Visibility. The idea for the flashmob came from a human-rights activist whose 18-year-old daughter is transgender. Another activity, the multimedia collective reading performance held on International Coming Out Day, featured personal stories of transsexual individuals from Moldova.

Gayten-LGBT in Serbia used the collected cases to demonstrate how transphobia affects trans people’s lives in the country by presenting a policy paper on the situation of trans people in Serbia before the National Assembly. Additionally, Gayten-LGBT established a close alliance with Sloboda Prava, a Belgrade-based sex-workers’ organisation, to address the violence faced by trans sex workers in the country in an intersectional way.

The LGBT community in Turkey has seen several negative developments during ProTrans. Istanbul Pride was massively attacked by police forces with teargas, water cannons and plastic bullets on 28 June 2015. Several people were injured and taken to the hospital. Shortly after the incident, Kemal Ördek, co-founder of the Red Umbrella Sexual Health and Human Rights Association,
ProTrans project partner and previous TGEU co-chair, Kemal Ördek, suffered ill-treatment at the Esat Police Station (Ankara). When he sought protection from a brutal sexual assault, theft, threats and insults, police officers offended and threatened him and his lawyer, failed to stop further abuse by the perpetrators and tried to prevent him from filing a complaint.

Transgender Europe, in partnership with four other European human-rights networks, sent a letter to Turkish authorities to urge them to instigate the incident swiftly and offer a comprehensive and systematic response to ensure respect for the rule of law and protect the basic human rights of trans people and sex workers. The letter was sent to human-rights-monitoring bodies to call for a follow-up on the investigation of the assault against Kemal Ördek and the behaviour of police officers at the Esat Police Station, as the incident was symptomatic of the treatment of trans sex workers in Turkey. Moreover, TGEU and partners asked these bodies to keep pressing Turkish authorities for immediate and long-term measures to improve the situation of trans people and sex workers in Turkey.

Red Umbrella and TGEU also drafted a briefing document for the European Commission against Racism and Intolerance (ECRI) country visit to Turkey in November 2015. ECRI’s objectives are to review member states’ legislation, policies and other measures to combat racism, racial discrimination, xenophobia, anti-Semitism and intolerance, as well as their effectiveness; to propose further action at the local, national and European levels; to formulate general policy recommendations to member states; and to study international legal instruments applicable in the matter with a view to enforcing them where appropriate.

On behalf of the ProTrans partnership, TGEU submitted a report containing a collection of transphobic hate crimes and hate incidents that took place in Europe in 2014 and were recorded and verified by TGEU and its partner organisations for the OSCE ODIHR Hate Crime Reporting.

Most of the cases were documented within the framework of the ProTrans and the Trans Murder Monitoring project of TGEU, a systematic collection, monitoring and analysis of reported killings of gender-variant/trans people worldwide. The submission also contains cases from Transgender Equality Network Ireland’s (TENI) Stop Transphobia and Discrimination (STAD) campaign. The STAD project raises awareness about transphobic violence in Ireland and enables the trans community to report hate crimes and incidents in a safe environment and without fear of ridicule or discrimination. Other sources of information include police and media reports.

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The ProTrans project

INTERNATIONAL MECHANISMS: Protecting Trans People from Violence

Richard Köhler has been a trans activist within the European transgender movement for more than a decade. He continued to initiate change to develop the structure and policy of TGEU drawing from his wide experience in international project management and NGO consultancy. His special fields of interest are policy development and advocacy at the European level. He spoke as a trans expert at the European Union and Council of Europe on a number of occasions, such as the historic meeting of Human Rights Commissioner’s trans expert meeting in 2008.

When feeling lonely and helpless after a transphobic attack international human rights seem awfully far away. But they actually have the potential to help right away and on the long run to ensure that no one is targeted because of their gender identity or gender expression. There has never been a better moment for trans activists to press government or gender expression. There has never been a better moment for trans activists to press government and policy makers to recognise and protect trans people’s human rights.

In the following section, we aim to give an overview of the most relevant policy instruments and mechanisms that address violence against trans people with the aim of enabling activists to use them as references in their advocacy activities.

Definition of gender-based violence

Attacks on people because of their sexual orientation or gender identity are often driven by a desire to punish those seen as denying gender norms and are considered a form of gender-based violence. You do not need to be belatedly, gay, bisexual, transgender, or intersex to be attacked. The perception of homosexuality or of transgender identity is enough to put people at risk.

International human rights law applies to trans people, as has been reinforced repeatedly by UN human-rights bodies and instruments. In July 2011, the UN Human Rights Council expressed its "grave concern" over violence perpetrated against individuals because of their sexual orientation and gender identity. Specifically, Article 3 of the Universal Declaration of Human Rights and Articles 6 and 9 of the International Covenant on Civil and Political Rights guarantee the protection of everyone’s life, liberty and security of the person. State authorities are obliged to investigate and punish this kind of violence. The Special Rapporteur on extra-judicial, summary or arbitrary executions and the High Commissioner for Human Rights have continually spoken out against transphobic violence, including by condemning the involvement of agents of the state and the impunity of perpetrators.

In about 60 substantive articles, the Convention details how to better prevent, protect against, prosecute and investigate and sanction violence against women and gender-based violence to date. In implementing the Convention, states must not discriminate on grounds of gender identity, particularly when taking measures to protect the rights of victims. Thus, trans people, and particularly those affected by multiple discrimination (e.g., ethnic or migrant background), enjoy protection from the Convention.

States Parties must integrate the Convention’s definition of gender as “socially constructed” (Art. 3) into their legal framework. They must also introduce specific criminal offences (Arts. 32–39) for physical violence, psychological violence, stalking, sexual violence, including rape, sexual harassment, forced marriage, female genital mutilation, forced abortion, and forced sterilisation.

The Convention demands that states act proactively with “due diligence” in preventing, protecting against, investigating and sanctioning gender-based and domestic violence. In particular, they must:

- Train professionals in close contact with victims;
- Regularly run awareness-raising campaigns;
- Take steps to include issues such as gender equality and non-violent conflict resolution in interpersonal relationships in teaching material;
- Set up treatment programmes for perpetrators of domestic violence and for sex offenders;
- Work closely with civil society;
- Involve the media and the private sector in eradicating gender stereotypes and promoting mutual respect.

The UN CEDAW (Committee on the Elimination of Violence against Women) expert group has repeatedly expressed concerns over violence and discrimination against transgender women. For example, in March 2015 it recommended that the Kyrgyz state ensure inter alia transgender women’s access to sustainable, non-discriminatory and non-prejudiced services, such as shelters, legal aid and counselling, and to protect them from violence, abuse and exploitation.

The Istanbul Convention

The Convention on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO or Istanbul Convention) is the most comprehensive, detailed and legally binding response to violence against women and gender-based violence to date.

NGOs have successfully been using “shadow reports” to the Universal Period Review 12 to put states on the spot for their inadequate responses to or complicity in transphobic violence. The regularity of the peer-review mechanism allows NGOs to follow up on recommendations made and point out cases in which states fail to implement them.

The UN CEDAW Committee on the Elimination of Violence against Women expert group has repeatedly expressed concerns over violence and discrimination against transgender women. For example, in March 2015 it recommended that the Kyrgyz state ensure inter alia transgender women’s access to sustainable, non-discriminatory and non-prejudiced services, such as shelters, legal aid and counselling, and to protect them from violence, abuse and exploitation.
Details of the monitoring procedures, such as the length of monitoring cycles and possibilities for NGO input, are in the process of being set up at the time of this publication’s writing. ¹⁴

Council of Europe’s Committee of Ministers
LGBT Recommendations
The Council of Europe’s (CoE) Committee of Ministers’ Recommendation on measures to combat discrimination on grounds of sexual orientation and gender identity (CM/Rec(2010)5) ¹⁵ contains detailed provisions regarding how CoE member states should protect the right to life, security and protection from violence for LGBT people. To this end, member states shall:

- Bring those responsible to justice and avoid impunity;
- Ensure effective, prompt and impartial investigations in (potential) homo- or transphobic crimes and other incidents;
- Pay particular attention when law-enforcement officials or other officially acting persons are alleged perpetrators;
- Take a bias motive into account as an aggravating circumstance when determining sanctions;
- Encourage victims and witnesses to report homo- or transphobic crimes or incidents and “provide adequate assistance and support” to them;
- Take all necessary steps to ensure that “law enforcement structures, including the judiciary, have the necessary knowledge and skills”;
- Take protective measures against “physical assault, rape and other forms of sexual abuse, whether committed by other inmates or staff” of LGBT people in detention, and in particular to “adequately protect and respect the gender identity of transgender persons”,
- Collect data “in particular on ‘hate crimes’ and hate-motivated incidents related to sexual orientation or gender identity”.

The Rec CM (2010)5 is the first intergovernmental agreement of its kind. While it is “soft law” and thus not directly enforceable, all CoE member states have approved it. Activists can thus hold governments accountable over their compliance.

PACE Resolution regarding discrimination against trans people in Europe
In April 2015, the Parliamentary Assembly of the Council of Europe (PACE) expressed its grave concerns regarding the discrimination and hate crimes faced by trans people in a dedicated resolution. ¹⁶ PACE calls upon member states to collect data on “transphobic intolerance and hate crimes”, design and implement anti-discrimination legislation and policies and monitor their impact. Specific protection should be afforded to trans people in hate-crime legislation, and law-enforcement bodies and the judiciary should receive specific sensitivity training.

The Resolution, including its recommendations, has quickly been accepted as standard-setting. Activists and policymakers across the continent have since used the Resolution to assess the situation in their own countries and demand improvements.

Council of Europe’s human-rights watchdogs:
The Commissioner for Human Rights and the European Commission against Racism and Intolerance
The CoE Commissioner for Human Rights has repeatedly spoken out against transphobic violence. ¹⁷ In reports, country visits, speeches and in direct conversations with state authorities, the Commissioner has highlighted the increased risk of violence faced by trans people. NGOs are invited to submit information on human-rights violations regularly, and in particular as preparation for regular country visits and reports. ²⁰ While no interference in individual cases is possible, the Commissioner can react in emergency situations by reaching out to authorities or by making a public statement.

ECRI is the only continuous watchdog in the Council of Europe. It is a forum of independent human-rights experts who monitor racism, xenophobia and intolerance in all member states. Recently, ECRI has been including homo- and transphobic violence in its country reports, documenting cases, and its recommendations call upon state authorities to introduce specific legislation and take pronounced measures against this violence.

NGOs are invited to keep the ECRI secretariat informed, particularly in preparation for ECRI country visits.²¹ ECRI can also react to emergency situations, but it cannot provide support in individual cases. The victim has the right to receive a wide variety of support and information (Ch. 2), to participate in criminal proceedings (Ch. 3) and to be protected (Ch. 4). All victims should be treated without discrimination, including based on gender identity and gender expression. The directive foresees training practitioners and any official likely to come into contact with the victim. An individual assessment should take place for every victim to prevent repeated victimisation and retaliation. The assessment should take into account the gender identity and gender expression of the victim, whether it was a hate or bias crime and whether it was gender-based violence.

Gender-based violence is understood as “violence that is directed against a person because of that person’s gender, gender identity or gender expression or that affects persons of a particular gender disproportionately”. If a trans person falls victim to gender-based violence, bias or hate crime, the individual assessment should qualify them for specialist protection and support services, including free and confidential victim-support services (independent of whether the crime is reported or not), shelters, trauma support and counselling, and legal aid and reimbursement of expenses.

During criminal investigations and proceedings, “measures to avoid unnecessary questioning concerning the victim’s private life not related to the criminal offence” must be in place. Also, “medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings”. The victim has the right to a hearing without the presence of the public, to have their privacy protected, including the personal characteristics that were taken into account in the individual risk assessment (e.g. gender identity), and to be protected from and avoid contact with the offender.
All EU member states must have transposed the Victim’s Rights Directive into national law by 16 November 2015. It is directly enforceable, which means that a victim can claim the rights established under this directive, even if the respective member state has not implemented it.

Member states also must collect statistics on the numbers and types of crime and the gender of victims and report to the European Commission on the implementation of the directive.

EU LGBTI Guidelines
EU member states have adopted the binding EU external foreign-policy guidelines to protect the human rights of LGBTI people in third countries. It commits the European External Action Service (EEAS) to combat “any form of LGBTI-phobic violence”. To this end, EU delegates should take the following actions:

- Encourage states to acknowledge LGBTI-phobic violence and develop, in conjunction with civil society, legal and other measures to prevent, monitor and effectively prosecute perpetrators of LGBTI-phobic violence.
- Contribute to combating any form of LGBTI-phobic violence by supporting civil society and governmental initiatives to monitor cases of violence, educate law-enforcement personnel and seek assistance and redress for victims of such violence.

A wide range of tools is suggested for EU delegations in third countries, such as human-rights country strategies, monitoring the human rights of LGBTI persons, EU Heads of Mission (HoMs) reports, démarches and public statements, proposing specific actions on individual cases, court hearings and prison visits, political dialogues, supporting efforts by civil society and international mechanisms and for EU representatives to pursue the issue in multilateral fora (UN, OSCE, CoE, etc.).
The main impact of the ProTrans project for Transvanilla is that it has enabled the association to expand its activities to cover a broader range of issues, and the tools provided by the project have enabled it to communicate effectively to its constituencies using existing channels.

The main impact of the ProTrans project for Transvanilla is that the association has strengthened its position in both the broader civil society and the trans, gender-non-conforming and intersex communities.

The ProTrans project in Hungary was implemented by Transvanilla Transgender Association (TV), and it was the association’s first financed project. Because the association had not previously monitored and reported transphobic incidents, it had limited information on transphobic discrimination, violence and hate crimes. The implementation of the project resulted in the introduction of new monitoring protocols and several related challenges.

Transvanilla was launched in 2008 as an information-al website for those seeking legal gender recognition and trans-specific healthcare in the country. At first, it was an online information portal and community support group. Beginning in 2010, monthly meetings were held with lectures by experts and thematic discussions, which became the main activity of the community. Some of those who regularly attended these meetings founded the organization in November 2011 in order

Countries: Hungary

ProTrans in Hungary

Barnabas Hidasi is the President of Transvanilla Transgender Association. He is the main researcher of the organisation and responsible for outreach to trans and gender-non-conforming persons in the country, and he aims to empower them to fight for their rights and raise awareness about trans issues.

Kristina Kolos Orban is the Monitoring Officer at Transvanilla Transgender Association. Their responsibilities, apart from monitoring transphobic incidents and providing counselling to trans, gender-non-conforming and intersex persons, include building alliances with governmental and non-governmental organisations in Hungary and at the European level to form coalitions for the fight against transphobia in society.

The project at a glance

- 32
  Number of transphobic incidents reported.
- 16
  Number of people receiving legal aid.
- !
  Number of new partnerships.

Types of Incidents

- Discrimination
- Assault
- Sex
- Racial
- Physical
- Transphobic
- Vandalism
- Harassment
- Sexual
- manifests
- Threats
- Social
- Stalking
- Gender
- Violence
- Physical
- Legal
- Violence
- Hate
- Crimes
- Crimes

Transvanilla at the 2015 Budapest Pride
to advocate for transgender people in all walks of life. Since then, TV has been trying to gather facts it can use in its advocacy. Before ProTrans, Transvanilla primarily worked on legal gender recognition and access to healthcare because the requests with which trans people approached it involved these issues. With ProTrans, Transvanilla had the opportunity to focus on an area that, because of its lack of resources to reach out to the community in order to monitor discrimination and violence, it had neglected completely until then. TV also utilised the project to exchange information with other organisations, including TGEU and the other ProTrans partners, on organisational practices such as media monitoring, client management and advocacy.

The main challenge of the project was the underreporting of cases. Based on an estimate from the data of the European Crime and Safety Survey (EU ICS) from 2005, 99.7 per cent of hate crimes remain unreported or are not classified as crimes by the Hungarian authorities.1 Transvanilla’s experience is that trans people do not want to report hate crimes because legal awareness and advocacy skills are very low in the community. The organisation addressed this problem by organising a two-day training workshop within the framework of the ProTrans project to raise legal awareness and for organisational development. Fifteen volunteers were involved, and they discussed topics such as the necessary skills of facilitators, the legal framework of discrimination and hate incidents and legal remedies. TV has no resources to offer psychological support or to involve experts, and the ProTrans project also did not provide resources for these things, but it inspired TV to involve partner organisations who can help in these matters. During ProTrans, TV referred minors to the Kék-Vonal Child Crisis Foundation,2 which operates child helplines and supports survivors of domestic violence, and NANE Women’s Rights Association.3 NANE is the only NGO in Hungary that runs a hotline for abused women and children. The PIPA Foundation4 offers mediation to LGBTQ people, and in one case TV suggested its services to a client. TV relied on its well-established methods of outreach to the trans community: for example, it disseminated information in its newsletter, through a closed Facebook group and through its website. Offline, it presented workshops at the Budapest Pride and its own events, reported on the results of the ProTrans project and distributed leaflets encouraging community members to report violent or discriminatory incidents.

The lack of available theoretical knowledge and practical experience at TV in helping victims of transphobic incidents also proved to be a challenge. The training workshop held during the project proved to be of great benefit in this regard, and during their organisational development programme the volunteers also gained insights into the psycho-social support process. They looked for organisations to which they could refer people who contacted TV and needed extra help that the volunteers could not provide themselves.

The organisation's experience was that victims reported violent or discriminatory incidents when they got in touch with TV in regards to other problems, typically in cases related to legal gender recognition and healthcare services, or at offline events. Some cases were reported because of TV’s call for reports, and the organisation also reached out to those who had reported discrimination to it through surveys prior to ProTrans. Additionally, one case was reported by another NGO. It got in touch for help in receiving a diagnosis for legal gender recognition and support for a victim of domestic violence.

The hospital's final report states, based on information provided by the emergency unit, that ‘our patient is a woman but had a sex-change operation to become a man’, and it provides a detailed description of the operation and repeatedly refers to me as having undergone ‘virilising surgeries’. It even diagnosed a rare urinary condition that I have never had. It provided a detailed description about female genitalia, which I have had nothing to do with for many years. While I was being treated, hospital staff said things in front of me such as ‘Is this a boy or a girl?’ On top of my basic situation, all this was very difficult for me because I have been passable for many years and have never faced such questions or attitudes.

I filed a complaint at two places but have not received a substantive response to date.

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Very commonly, those who turned to the organisation did not ask for legal advice, in most cases, it was enough for them that they could talk to someone about the discrimination and/or violence they had experienced and make the cases visible in this way. TV used its volunteer database when providing help: those who contacted them were referred to volunteers who were of the same age and/or gender, or who were or had been in a similar situation.

* * *
Most of the individual complaints are related to these problems:

- The ministry responsible for legal gender recognition arbitrarily changes the requirements without providing information. According to the applicants, they initiate legal proceedings because of the uncertain and changing nature of the conditions. There is a complainant whose legal gender recognition process has been ongoing for more than six months because of these problems.

- Because of the protracted process and the prolonged transition time, the applicants become vulnerable in all aspects of their life (family environment, working life, etc.), and vulnerability often leads to harassment. A typical example is bullying at the workplace.

- Gender identity and information regarding the change of gender and name are not mentioned in the Hungarian Data Protection Act as special data. Therefore, individuals’ change of gender is shown on official documents and correspondence. In one particular case, the court sent a formal letter to the person concerned, putting their new name and, in brackets, the previous name. This lack of protection of personal data can lead to shaming and even bullying.

- Also because of the lack of legal regulations, individuals are often not able to change their school diplomas, or the educational institutions do not classify the change of name and gender as special personal data. This also leads to humiliation and sometimes harassment.

- My personal experience is that individual trans people’s lack of legal awareness is based not only on a lack of information, but also on their fear of being defenceless and humiliated. It is therefore important that individuals should not act and stand up for their rights on their own. Instead, the organisation should provide support and assistance (with the assistance of a lawyer or a paralegal person) in their cases.

- Structural and institutional violence

   The Hungarian government introduced a practice for legal gender recognition in 2003 and has promised to enact proper legislation and clinical guidelines for trans-specific healthcare. According to the practice, transgender persons are able to have their legal gender recognised (only male or female) by means of a non-legislated procedure for the changing of one’s name and legal gender at the same time. Thus, official documents can be changed to match one’s gender identity. No compulsory medical or surgical intervention, including sterilisation, is required for legal gender recognition, but a mental-health diagnosis must be obtained. The most significant barrier in the process is that most of the experts refuse to diagnose trans people, and the few who are willing to do so do it for money and are based in the capital. For those individuals who do not have the financial means to travel and pay for the service, it can be very difficult to get a diagnosis.

   A trans person who applies for a rectification of their recorded sex must be unmarried and not in a civil registered partnership. This entails mandatory divorce if the person is already married. No change of one’s first name is possible without also changing one’s gender marker, and vice versa, based on the law on registries, which requires a person’s first name to match their gender identity. No government website provides information on the process, and the information has never been made publicly available.

   Whether an application for a change of name and gender marker is approved or denied, it is not clear who made the decision. In the case of a positive outcome, the only document issued is the new birth certificate (which obviously only contains the new name and new gender without any reference to the individual’s previous status). The processing of the new document is often delayed, and there is also always a delay when the application is denied. Indeed, when an application is denied, no reasons are provided, and the applicant receives only a statement informing them of the outcome. No data is publicly available on any of the cases.

   Trans people who are underage, foreign, refugees or married cannot change their documents. Although there is no legislation banning changing one’s gender for people who are underage, foreigners or refugees, during the project period in one case a refugee and in two cases minors were not permitted to change their legal gender and were also denied access to healthcare treatment because of their age or nationality.

   Article XV of the Fundamental Law, which pertains to equality, lacks reference to gender identity, although, since the list of grounds is non-exhaustive, this element should in principle be covered. At the same time, Hungary’s non-discrimination legislation, from 2003 explicitly includes gender identity but not gender expression among the prohibited grounds. Furthermore, there is no action plan in place to combat homophobia and transphobia in all areas of everyday life, including education, employment and healthcare.

The Equal Treatment Authority is a quasi-judicial equality body in Hungary. It is an independent administrative organization that was created to receive and deal with individual and public complaints on unequal treatment.
and to implement the principles of equality and non-discrimination. Gender/sexual identity is a ground covered in the field of employment and in other areas (education, goods and services, housing, social protection). For various reasons, among which the most important is probably the high level of underreporting of cases based on gender identity, since its creation in 2005 the Authority has never found discrimination on the grounds of gender identity. In two cases, prior to the Authority’s reaching a decision, the parties reached a settlement. One of the cases was a photo shoot in a castle park with transvestites in wedding dresses. The owner originally banned the shoot but apologised later, and the shoot finally took place. The other case involved an incident at a naturist beach, which was only open for members of an association. They let the complainant in because they knew her, but with the requirement that she keep herself wrapped in a towel because she was trans. When she took off her towel, they removed her from the premises. They later apologised. The woman was satisfied with the apology at first, but she later contacted Transvanilla to complain about the incident.

A number of studies show that discrimination based on gender identity and negative discourse concerning LGBT people are widespread, and that they have gotten worse in recent years. In its 2013 report on the extent of equal treatment awareness, the Equal Treatment Authority noted that, despite significant steps towards establishing equal rights for LGBT people over the last two decades, discrimination, prejudice, hate speech and violent attacks persist.

In relation to hate crimes, Article 216 of the Criminal Code explicitly sanctions violent acts motivated by transphobia as violence against a member of a community with up to eight years’ imprisonment. Article 332 explicitly sanctions incitement to hatred against groups based on gender identity with up to three years’ imprisonment. Though the legislation is relatively progressive, police and prosecutors are very reluctant to press such charges, and even if they do they often prosecute hate crimes as less severe offenses because they are easier to prove. However, no data is collected on transphobic hate crimes. So far, no case involving incitement to hatred or violence against a community on the grounds of gender identity has reached the criminal courts. The National Crime Prevention Strategy also lacks measures aimed at combating crime motivated by transphobic violence.

A challenge when visualising violence against the trans community is that authorities are not undertaking any research and do not collect data on LGBT persons or on discrimination and intolerance against them, despite the fact that most of the respondents (79%) in a research study thought that discrimination based on gender identity became more frequent between 2006 and 2010. In relation to trans-specific healthcare, there are no clinical guidelines or medical protocols, which results in a lack of proper care and a lack of experts. Health insurance covers only 10 per cent of the total costs of gender-affirming surgery. The lack of specialised surgeons in the public healthcare system is also a major obstacle.

In most cases, legal gender recognition is a prerequisite to be able to obtain access to trans-specific healthcare, which in many cases is inadequate and leads trans people to use hormones without medical supervision and often buy hormones on the informal market. Various forms of discrimination against trans persons in the healthcare system were recorded by Transvanilla’s TransCare project and in the framework of ProTrans:

- Infringement of the right to access health care and the right to equal access
  - missed examinations, denial of medical care and/or denial of surgery
  - failure to provide high-quality treatment, understating (or minimising) complaints
- Humiliation of and inconvenience to patients because of their gender identity or gender expression
  - no proper examinations (inconvenient, painful exams)
  - separate placement (e.g. in disabled locker rooms)
  - mocking, humiliation, inappropriate curiosity from medical staff

Trans people are invisible or highly stigmatized in public discourses. The most likely reason for this is that only 3 per cent of the population has trans acquaintances, according to the Special Eurobarometer 393 report, while 8 per cent has LGB contacts. So far, research on the issue in Hungary has only been carried out by LGBT and trans NGOs.

The European Commission against Racism and Intolerance (ECRI) report on Hungary from 2015 confirms that hate speech is very common in Hungarian society. The application of criminal provisions regarding incitement to hatred remains extremely limited. Jobbik, a radical right-wing populist party, openly and publicly engages in transphobic hate speech on a regular basis. The day after Conchita Wurst won the Eurovision Song Contest in May 2014, Gábor Vona, president of Jobbik, said in the National Assembly: “When a man claims himself to be a woman and happens to have a beard, you might think this is nice and maybe there is no problem, but the problem starts when this bearded woman wins the Eurovision Song Contest. In May 2014, Conchita Wurst was a beard, you might think this is nice and maybe there is no problem, but the problem starts when this bearded woman wins the Eurovision Song Contest.”

“...we are pro-European, but we do not see the future of Europe in a bearded woman.”
On some occasions, when civil society has called on the authorities to condemn these statements, the authorities have remained silent. As a result of the climate of impunity, derogatory remarks about trans persons have become commonplace in the public sphere.

For the record
1. Jobbik held a press conference entitled “Our Europe vs. the Eurovision of the bearded woman”. Conchita Wurst was presented as an example of the latter and contrasted with examples of the former.
2. After Conchita Wurst won the Eurovision Song Contest, and in the run-up to the European Parliament elections the same month, Jobbik published a picture showing Conchita Wurst over an EU flag alongside a blonde Hungarian woman over the Hungarian flag, with the words “You choose!” A spokesman for the party had previously said Jobbik opposed “bearded women”.
3. The day after Conchita won Eurovision, Jobbik’s Youth Division posted a meme on its Facebook page. “Their Europe”, and on the right was a family and celebrities and crimes. Most stories involve events outside of Hungary, and it is very rare that a piece on Hungarian issues is published. Stories by the Hungarian news agency Hungarian Telegraphic Office are sometimes popular and published online by many news sites. Even when the stories are well-intentioned, the language used has plenty of room for improvement. To address this problem, in 2015 a guide on LGBTI issues was prepared by the Hungarian LGBT Alliance and TV, as well as a trans/intersex-specific guide by TV.

Transvanilla has been monitoring Hungarian mass media since October 2014 with regard to its coverage of trans and intersex issues and the (mis)representation of trans and intersex people. There is not much coverage of trans and intersex issues is published. Stories by the Hungarian news agency Hungarian Telegraphic Office are sometimes popular and published online by many news sites. Even when the stories are well-intentioned, the language used has plenty of room for improvement. To address this problem, in 2015 a guide on LGBTI issues was prepared by the Hungarian LGBT Alliance and TV, as well as a trans/intersex-specific guide by TV.

As a result of the issues described above, many trans people feel devastated from time to time. In the TransCare survey, 53.7 per cent of respondents reported that they have seriously considered committing suicide and 44.4 per cent of those – every fourth person surveyed – has actually tried to commit suicide.

**Societal violence**

Since Hungary has been a member of the EU, solid data on discrimination against trans people has been collected through some EU-wide research and by research studies by Hungarian LGBT and trans organisations. The Fundamental Rights Agency’s EU LGBT survey from 2012 found that 50 per cent of trans respondents from Hungary said that in the year preceding the survey they had felt personally discriminated against or harassed because they were perceived as trans. Those who had been discriminated against or harassed were more likely to avoid expressing their preferred gender than those who had not (60%, versus 40% in the EU as a whole). Those who had been discriminated against or harassed were also more likely to avoid certain places or locations for fear of being assaulted, threatened or harassed than those who had not (68%, versus 32% in the EU as a whole).

To assess how trans respondents’ perceptions of discrimination on the grounds of gender identity compare with those of the general population, data from the EU LGBT survey are presented in the following chart along with those from the Special Eurobarometer 393. Trans respondents in the EU LGBT survey are more likely than Eurobarometer survey respondents to say that discrimination based on a person’s gender identity is widespread in their country of residence. It is important to highlight that only 3 per cent of Hungarian respondents in the Eurobarometer survey know a trans person.

According to Transvanilla’s study “The situation of transsexual people in Hungary in 2012”, transsexual people are often experienced discrimination at the hands of their schoolmates (38%) and in the healthcare system (34%). The high level of healthcare discrimination is also underlined in Transvanilla’s TransCare research. 26% of respondents felt discriminated against in healthcare facilities or during medical examinations because of their gender identity or gender expression, and only 4 of the 66 respondents who answered in the affirmative filed a complaint. In two of the cases, the healthcare facilities in question were not dealing with the complaints, and in the other two cases an investigation had been initiated but there had been no follow-through. The majority of respondents (94%) did not report the incident because they feared getting into a worse situation, did not think they could do anything, were afraid of being humiliated or hurt, believed that the incident was too minor or had no trust in the authorities.

One of the root causes of discrimination and inappropriate care in the healthcare system is the lack of medical guidelines for trans-specific healthcare. Psychiatrists, surgeons and other medical staff providing trans-specific healthcare are free to decide whom to treat, whether to treat them and how to treat them. In one case, a psychiatrist’s lack of knowledge resulted in his requesting legal gender recognition as a prerequisite for the diag-
Also high (29%) was the number of people who felt discriminated against at their educational institution or workplace.

The results on reporting rates in this survey are similar to those of the TransCare survey. Only 9 per cent of those who felt discriminated against had filed an official complaint, led to the perpetrator being held accountable. Most of the victims did not launch a complaint because they distrusted authorities.

Every fourth trans respondent (29%) felt discriminated against in educational institutions. The most common form of discrimination in schools is being the target of gossip and lies (84%) and bullying or harassment by peers (75%). 41 per cent of those discriminated against at school reported being discriminated against and/or humiliated by their teachers as well, while 47 per cent reported physical abuse by peers and 13 per cent by teachers.

For trans minors, it is impossible to be called by their preferred name at school or to be treated as belonging to their preferred gender, and the possibility of legal gender recognition is closed to them. The Hungarian legal system (and Hungarian society more generally) is very strict on names and even nicknames: there are two sets of lists for first names, one for females and the other for males, and the first name has to match the person’s legal gender. There are no gender-neutral names at all. In medicine, for the diagnosis when the diagnosis is in fact a prerequisite for legal gender recognition. One surgeon chose his patients personally before my transition, but since then I have not been permitted to make independent decisions.

From time to time, my boss still wants to shake my hand and calls me by my male name. I was recognised professionally before my transition, but since then I have not been permitted to make independent decisions. Whenever there is any conflict, I am implicitly threatened for being transgender, so it is better to hold myself back. After my gender change, I used the men’s restroom for a while, but because I was the one asked to clean it all the time I decided to use the women’s restroom. One of my female co-workers became furious that I was using the women’s restroom and changing room. Because of this, I voluntarily begin earlier and finish later, which is an extra factor that could lead me to be attacked. In my profession, it would be difficult to find another job, and the salary would be also lower elsewhere. If I filed a complaint against the company, the situation would only get worse; even though I have rights, they just cannot be enforced. I see no other solution than to endure and cautiously make small complaints from time to time.

Almost half of the incidents recorded within the framework of the ProTrans project involved discrimination. Among those, eight happened in the healthcare system, and six of those were related to trans-specific healthcare; two happened in schools when the victims tried to obtain new certificates after legal gender recognition; two happened at the workplace; one involved direct discrimination during the legal gender recognition process; one happened in a bank; and one took place in a shop.

Based on the Háttér Society’s 2010 LGBT survey, discrimination against trans people is not only widespread in education but also at the workplace. Most of the respondents reported being the target of lies and gossip by co-workers and bosses (86%), and being faced by a transphobic work environment overall (76%). A fair number (27%) of those reporting discrimination launched a complaint. Of these cases, three led to the perpetrator being held accountable, but in three others the complaint was not dealt with properly, and in another case it did not yield any results.

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Almost half of the incidents recorded within the frame-
Direct transphobic violence

Trans people face a high level of violence, hate-motivated attacks and harassment, as stated by the Fundamental Rights Agency’s 2012 EU LGBT survey. The prevalence of hate-motivated violence in the 12 months prior to the survey was 10 per cent in Hungary, slightly higher than the EU average of 8 per cent. While the prevalence of hate-motivated harassment in the 12 months preceding the survey was 22 per cent across the surveyed EU member states, it was significantly higher in Hungary, at 28 per cent. As a result of these trends, almost half of all trans respondents from Hungary (45 %) avoided expressing their gender (or their desired gender) through their physical appearance and clothing due to fear of violence, harassment and discrimination. These numbers are also significantly higher than the EU average.

According to the LGBT Survey 2010 by Háttér Society, trans people were significantly (25 % vs. 6 % in the sample’s general population) overrepresented among rape victims. The study also confirms the low reporting rates among trans people: only 11 per cent reported experiences of violence to authorities.

For the record

1. At a night school, one of the victim’s classmates brought her boyfriend to the classroom. He argued with some of the other students, and to the victim, a trans man, he said: “It must feel shitty not to have a dick”. During the break, the victim asked the teacher not to allow the man back into the classroom, but nothing happened. Because of the victim’s request, the man’s girlfriend called him a “punk beast”. The man continued his threatening behaviour, and at the end of the class another classmate asked his brother to pick the victim up and drive him home for safety.

2. The victim of an attempted assault met a man on an online friend finder, and the man came to visit her, but he was not alone. He had brought a friend to beat her up. She managed to escape to the garbage room of her building and locked the door. She called the police, but the two men were gone when the police arrived.

3. At a bus stop, a man who was with a group of friends asked a trans man for a cigarette, and then asked him for more for his friends. They took the whole box and tried to take other things from his pockets while asking him whether he was male or female. One of them said she knew him and he was female. There were bystanders in the vicinity, but they did nothing. When a police van drove by, the perpetrators moved away, but they came back afterwards and continued to harass the victim. They spit on him, grabbed him and threatened him. He got away by getting on the bus when it came. Nothing was stolen: they returned all his belongings before he left.

4. The victim is regularly verbally abused by her family, which does not respect her gender identity. After her father was hospitalised, the victim’s relatives blamed her for his health problems and physically assaulted her.

5. A trans woman passed by a family on her way to work. Without any warning, the man tried to hit her, but she was able to avoid the blow. When she asked him why he had tried to hit her, he threatened her.
Sanjar Kurmanov is a trans activist and the executive director of Labrys, an LGBTIQ organisation. Since joining Labrys as a volunteer in 2008, Sanjar has been involved in LGBT activism in Kyrgyzstan and Central Asia.

ProTrans has helped Labrys build new partnerships at the international level. The Fifth European Transgender Council has also been extremely fruitful in helping us establish a new group in Kazakhstan, Almat-TQ, which Labrys provides with resources and support.

The ProTrans project in Kyrgyzstan was implemented by Labrys Kyrgyzstan, an LGBTIQ organisation. Labrys was already engaged in monitoring and documenting discrimination against and the violation of the rights of LGBTIQ people, but ProTrans was the first project implemented by Labrys that focused solely on trans people. One of the highlights of the project was the organisation of a trans camp at Issyk-Kul Lake in August 2014, in which activists from Ukraine, Kazakhstan and Kyrgyzstan participated. The training provided at this camp helped unite the trans community, develop solidarity for a variety of identities within the community and deepen the participants’ understanding of the importance of monitoring cases of violence. Kyrgyzstan’s trans community understands the importance of documenting the level of discrimination and violence in the region, and members of the community decided to collect this information by informing each other of incidents. It was noted that it was important to focus the government’s attention on cases of human-rights violations and hate crimes against trans people.
Another training session, this time for lawyers, was organised in August 2015. The training involved 15 lawyers who were either state attorneys or private practitioners. One of the participants was a lawyer from Kazakhstan who is currently fighting a case against the illegal firing of a trans-man police officer. A legal trans-rights expert from Russia was invited to the training session. Participants at the event were provided with general information about gender identity and legislative regulations regarding legal change of gender, and the training focused mainly on real cases, as well as the practices of more experienced lawyers.

A bill to criminalise the promotion of LGBTIQ rights, known as the Gay Propaganda Bill, was presented before Kyrgyzstan’s parliament, the Supreme Council, in March 2014, and it posed one of the main challenges faced by Labrys during the ProTrans implementation period. The bill resulted in an increase in violence and discrimination against trans people in the country. Furthermore, community members are usually not willing to file reports or turn to law-enforcement agencies due to the increasingly hostile environment.

On 26 March 2014, two members of Kyrgyzstan’s Supreme Council introduced a draft law that would impose administrative and criminal penalties for the “creation of a positive attitude towards non-traditional sexual relations” in the media or in public. The bill was registered in the Supreme Council for consideration on 15 April without a due period of public discussion. Although the bill was withdrawn on 23 April for technical reasons, an updated version of the bill, with another member of parliament (MP) joining the list of initiators, was registered — without any prior public discussion, thus breaking the Supreme Council’s own regulations. The bill is currently being studied by a parliamentary committee. Numerous reports indicate that a majority of MPs support the bill, which violates the Kyrgyz Constitution and the country’s international human-rights obligations. Many MPs are in favour of harsher punishment for “homosexual propaganda” and recriminalising homosexuality.

Labrys employed a new team member in 2013 to improve its outreach strategy. This outreach worker, a transgender person himself, managed to reach out to new people who were unaware of the organisation and the support it provides to the community. So far, Labrys remains the only organisation that provides services such as assistance in obtaining the official documents necessary to change one’s name and gender, begin hormone therapy and obtain other medical support.

The outreach worker reached out to new people, who eagerly shared their personal stories, including cases of discrimination, violence and hate crimes, as a result of which Labrys has been able to increase the visibility of trans issues. Some participants at the trans camp also shared their stories, which have also been documented.

Furthermore, the trans camp helped participants learn more about the types of community support that Labrys can provide for the LGBTIQ communities. One of the positive outcomes of the trans camp was the increased number of volunteers willing to be affiliated with Labrys, some of whom later came to be employed at the organisation.

Labrys provides medical and psychological support to the victims of violence. Legal support is always provided to victims, if they want it. Labrys also assisted a victim in filing a police report against perpetrators, some of whom were themselves police officers. The report resulted in monetary compensation for the victim, who was fully satisfied by the outcome.
Did you experience any difficulties with the border control officers in Kyrgyzstan? Did you have any support from organizations or individuals? How did you manage to overcome these challenges and defend your rights?

Tais Plus does not sufficiently understand trans issues, and Labrys lacks knowledge of the situation of sex workers. By working together in an intersectional way, we are able to understand each other and the concerns of the two groups, and of trans sex workers, better, and to provide members of this community with support, and to empower them to overcome life’s challenges on their own.

In 2014, we joined forces to draft a joint alternative report on the situation of women sex workers, drug users and LBTI people to submit to the UN’s Committee on the Elimination of Discrimination Against Women at its 60th session. Not everything went smoothly during the cooperation: sometimes it was difficult to agree on the specific issues that should be presented to the Committee. But we coped with these difficulties, and we learned to support each other and find common issues, always with the goal of improving the situation of our communities.

In recent years, we and Labrys have identified various common concerns. Transgender sex workers have become more visible, and they contact us more frequently. In the last two years, transgender sex workers have encountered extreme levels of violence from the police or those who pose as police. Incidents include not only insults from passers-by on the street, but also humiliation, beatings, sexual assault and blackmail. In one incident, a trans woman sex worker was forced to undress by police officers at a police station and filmed. This video was later distributed through social media and websites.

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A Bishkek-based sex-workers’ organisation

Tais Plus

Tais Plus is a community-based organisation of sex workers that was established over 15 years ago. We try to maintain a communal spirit, make decisions as a team and improve the situation of sex workers in this country. Labrys is also a community-based organisation and our long-term partner because we understand each other and work together for solutions to our problems. Members of the two teams go to work every day, despite the challenges they face, and they strive to find community-based solutions, solutions that emerge from those who come to us and seek support and those whom we do not yet know but whose views and needs reach us through word of mouth via our outreach workers, volunteers and allies.

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Inteview with Tais Plus, a Bishkek-based sex-workers’ organisation

For the record

1. Since January 2012, D., a transgender man, has repeatedly asked the civil registry office to change his name and gender marker. At first, a civil registry official refused on the grounds that D. needed to undergo sex-reassignment surgery first. In the spring of 2013, D. had his mammary glands removed and received a sex-reassignment surgery certificate. However, D.’s application was again denied because an official claimed that these changes can only be made once all sex-reassignment surgeries have been completed and after a meeting by a panel of doctors of all specialties to confirm the sex reassignment.

2. In January 2015, S., a transgender man, was going through customs at the airport in Bishkek for a work-related trip. He was in the process of transitioning – he had had gender-reassignment surgery and had been on hormone therapy for over a year at the time of the incident – but his ID did not reflect his gender identity. The border-control officer expressed doubt as to whether T. was presenting his own documents, as a result of which T. explained that he was trans and presented a medical certificate. The documents did not satisfy the officer, so he took T. to his supervisor’s office. At the office, three border-control officers (all cisgender males) asked him personal questions concerning his gender identity and sexual orientation. Under the pretext of drug-trafficking suspicions, the officers subjected T. to a full strip search. After the questioning and search, T. was given his documents back, but he was not allowed to leave the country. After the humiliating and psychological violence that T. suffered at the hands of the border-control officers, he decided not to argue their decision and was forced to cancel his trip.

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Structural and institutional violence

Kyrgyzstan law permits transgender people to change their gender marker on their official documents, but only after they have obtained “a document of a certified standard issued by a medical institution confirming the sex change”. There is, however, no such thing as a “document of a certified standard”, as a result of which it is nearly impossible for transgender people to change their gender marker, which in turn causes them to be subjected to multiple forms of discrimination and the violation of their rights for not having documents that adequately reflect their gender identity. Apart from the more obvious forms of discrimination and violence, including at the hands of law-enforcement officers, civil-registry and border-control officers use the situation to extort transgender people. In practice, some civil-registry officials require a document proving that a person has undergone gender-reassignment surgery, and some change documents on the basis of a diagnosis only.

Countries: Kyrgyzstan

1. Since January 2012, D., a transgender man, has repeatedly asked the civil registry office to change his name and gender marker. At first, a civil registry official refused on the grounds that D. needed to undergo sex-reassignment surgery first. In the spring of 2013, D. had his mammary glands removed and received a sex-reassignment-surgery certificate. However, D.’s application was again denied because an official claimed that these changes can only be made once all sex-reassignment surgeries have been completed and after a meeting by a panel of doctors of all specialties to confirm the sex reassignment.

2. In January 2015, S., a transgender man, was going through customs at the airport in Bishkek for a work-related trip. He was in the process of transitioning – he had had gender-reassignment surgery and had been on hormone therapy for over a year at the time of the incident – but his ID did not reflect his gender identity. The border-control officer expressed doubt as to whether T. was presenting his own documents, as a result of which T. explained that he was trans and presented a medical certificate. The documents did not satisfy the officer, so he took T. to his supervisor’s office. At the office, three border-control officers (all cisgender males) asked him personal questions concerning his gender identity and sexual orientation. Under the pretext of drug-trafficking suspicions, the officers subjected T. to a full strip search. After the questioning and search, T. was given his documents back, but he was not allowed to leave the country. After the humiliating and psychological violence that T. suffered at the hands of the border-control officers, he decided not to argue their decision and was forced to cancel his trip.

3. In December 2014, T., a transgender man, was going through customs at the airport in Bishkek for a work-related trip. T. was in the process of transitioning – he had had gender-reassignment surgery and had been on hormone therapy for over a year at the time of the incident – but his ID did not reflect his gender identity. The border-control officer expressed doubt as to whether T. was presenting his own documents, as a result of which T. explained that he was trans and presented a medical certificate. The documents did not satisfy the officer, so he took T. to his supervisor’s office. At the office, three border-control officers (all cisgender males) asked him personal questions concerning his gender identity and sexual orientation. Under the pretext of drug-trafficking suspicions, the officers subjected T. to a full strip search. After the questioning and search, T. was given his documents back, but he was not allowed to leave the country. After the humiliating and psychological violence that T. suffered at the hands of the border-control officers, he decided not to argue their decision and was forced to cancel his trip.
Kyrgyzstan does not have anti-discrimination legislation to protect people based on their sexual orientation and/or gender identity. It has general laws that protect all citizens, and the Kyrgyz Criminal Code criminalises speech that incites “national, racial, religious or interreligious hatred”. However, there are no laws to protect the LGBTQ+ community from hate crimes. Crimes clearly motivated by homophobia and transphobia are investigated and classified without taking these motives into account. Only ethnic or religious hatred is considered an aggravating circumstance, and only in one article of the Criminal Code, “Murder”.

Institutional violence in healthcare also poses tremendous difficulties and maltreatment for trans people. The Ministry of Health is responsible for the development and approval of the documents that medical specialists fill out for citizens. However, as indicated above, there is no standardised form to facilitate the process of changing one’s gender marker, even though such a form is officially required in order to change one’s gender marker. State hospitals also violate human rights: they only have male and female wards available at no charge. If a trans person wishes to hire him because of his gender identity, the employer then asked him to bring his ID to be registered officially. The victim brought his passport (with a female gender marker) and a form indicating a diagnosis of transgenderism. The employer told him it was impossible to hire him because of his gender identity.

Trans activists are also often silenced within civil society and by service providers for at-risk groups. For example, a trans activist announced his candidacy for the elections for Country Coordination Mechanism of The Global Fund to Fight AIDS, Tuberculosis and Malaria. He was discriminated against by staff members of an organisation that provides services for men who have sex with men (MSM). They argued that he was an inappropriate candidate because, as a trans man, he was not “quite an MSM representative”, thereby failing to distinguish gender identity from sexual orientation.

For the record
1. A public-sector scientific urological centre in Bishkek denied an HIV-positive trans woman access to a vaginal-naplasty. The woman did not seek legal recourse out of fear of being exposed to even greater stigma and discrimination.

2. Incidents of hate speech occurred several times during ProTrans. A week after an attack on a Labrys event on 17 May 2015, Delo, a national homo/transphobic newspaper, published illegally taken photos of LGBTQ+ people at an internal event during the International Day against Homophobia and Transphobia (IDAHOT) week. The photos were intended to out LGBTIQ people and subject them to hate speech, humiliation and mockery.

Societal violence
Trans people in Kyrgyzstan are constantly harassed and humiliated in public spaces, and they also face constant discrimination from medical personnel, employers and public officials. Of the nine cases of discrimination registered during ProTrans, five were connected with the lack of legal gender recognition.

For the record
1. A trans man got a job without presenting ID. His employer then asked him to bring his ID to be registered officially. The victim brought his passport (with a female gender marker) and a form indicating a diagnosis of transgenderism. The employer told him it was impossible to hire him because of his gender identity.

2. Trans people are refused a job because of their gender identity. The employer recognised the victim from a well-known video, posted online by police officers, in which she was forced to strip at a police station. The employer discussed the video in front of the victim.

3. A trans woman was refused a job because of her gender identity. The employers recognised the victim from a well-known video, posted online by police officers, in which she was forced to strip at a police station. The employer discussed the video in front of the victim.

Direct transphobic violence
Within the trans community, sex workers are especially vulnerable to violence, as has been confirmed by the monitoring carried out within the framework of the ProTrans project: the victims of the most serious violence, including sexual assault, were all sex workers.

Similarly to the intention to introduce the anti-LGBTIQ bill, which would impose administrative and criminal penalties for the “creation of a positive attitude towards non-traditional sexual relations”, there have been various attempts in Kyrgyzstan’s Supreme Council to criminalise sex work, including twice in 2014-2015.

For the record
1. Six to eight police officers brought a 19-year-old trans-woman to the police station and forced her to undress while filming her. This video was later distributed through local social media websites and mobile applications. Police officers can be heard humiliating and mocking the victim, telling her that she is disgusting and should not wear female clothing, and calling her a faggot. One of the police officers stole her phone and money.

2. In November 2014, X., an 18-year-old trans-woman was attacked by her client and his friends. The four young men identified themselves as police officers and forced her to undress, threatening her with imprisonment and rape if she did not comply. They verbally abused her, touched her breasts and filmed her naked on camera. They then demanded that X. provide them with $1,000 US, threatening that they would otherwise post the video on the Internet and give it to local TV stations.
They released the victim so she could find the money. When she later informed them that she could not obtain the money, they posted the video on the Internet. The victim filed a complaint with the police, and the case is currently under investigation. All the perpetrators have been identified, but their lawyer is pressuring the investigator to drop the charges, threatening to have him fired should the case proceed to trial. The investigator has also exhibited signs of transphobia towards the victim.

When participants were taken to the police station as witnesses, they were crammed into the police car and had their hands twisted and hair pulled. They spent more than five hours at the police station without access to medical aid, toilets, water or food. The police also demanded that several participants show them their genital so they could identify those who were transgender. The officers also swore at and threatened the activists and refused to allow them legal representation. In addition, they showed the witnesses’ testimonies to the attackers, who attempted to note the activists’ personal information. Members of Kalys and Kyrk Choro were treated very differently at the station: they could get up, move around and eat and drink. After the incident, a criminal case under Article 234 of the Criminal Code (hooliganism) was opened.

In general, police institutions in Kyrgyzstan are transphobic, and not just in regards to sex workers. Police officers allow themselves to initiate “check-ups” of trans people’s genitals, as occurred after an attack at an IDAHOT event in 2015, when participants were brought to the police station in Bishkek.

For the record

1. On 17 May 2015 in Bishkek, members of the radical nationalist Kalys and Kyrk Choro movements illegally broke into an event Labrys had organised to celebrate IDAHOT. The attackers broke the lock on the gate and broke into the cafe. They threatened and insulted the activists, and there was a scuffle in which one of the activists was injured. LGBTQI activists called the police and asked the men to leave the premises, saying that their actions were illegal. They agreed to continue talking outside, on the other side of the gate. The attackers told the activists that if they did not stop the event, they would call more people and create a real threat to their security.

2. On 3 April 2015, the office of Labrys was attacked: three Molotov cocktails were thrown into the yard of the human-rights organisation, two of which caused a fire. Labrys’s CCTV cameras recorded two unknown persons who attacked the office. Fortunately, the building was not damaged by the fire. The nature of the attack shows that the attackers were planning arson. This incident is not the first in the history of the organisation: its activists have been subjected to threats of physical violence numerous times, while the office building has been pelted with rocks.
Labrys notes that the number of threats and attacks against LGBTIQ communities, as well as LGBTIQ human-rights defenders, has increased since the proposal of the Gay Propaganda Bill in Kyrgyzstan’s Supreme Council in 2014, discussed above.

For the record
1. A trans woman came out of her house and noticed that she was being followed by three men. She started running. They chased her and called her a "fag". She managed to escape.

2. A woman and a trans man were at a public place, where seven people were pointing at them. One came up to them and rudely asked her to go out with him. He then walked over to the trans man and asked him, "Are you woman?" His friend then came up and took him away. The victims were forced to stay there for an extended period of time, as they were afraid of being followed by the group if they tried to leave.

3. An unknown group of people beat a trans man severely while shouting homophobic slurs at him, believing that he was homosexual.
ProTrans in Moldova

The main impact on GENDERDOC-M of the ProTrans project is that it has finally expanded its activities with and for the trans community, thereby making itself a more trans-inclusive and sensitive organisation, thanks to the increased outreach to trans and gender-nonconforming people.

The project at a glance

- 8 Number of transphobic incidents reported.
- 8 Number of meetings organised involving the trans community.
- 40 Number of people reached.
- 5 Number of people receiving legal aid.

The ProTrans project in Moldova was implemented by the GENDERDOC-M Information Centre. As the organisation already monitored and documented discriminatory incidents and violations of LGBT people’s human rights, the project’s particular focus was outreach to the trans community and awareness raising about trans-specific issues among the general public, as well as among the lesbian, gay and bisexual communities. Trans people are the most underserved and underrepresented group within the Moldovan LGBT community. On the one hand, this underrepresentation is a result of the small number of trans people who reach out to GENDERDOC-M for assistance, including safe spaces and psycho-social services, which consequently leads to their invisibility within the greater LGBT community, as well as the complete absence of trans-rights activists from the trans community. On the other hand, many transsexual people, who comprise the majority of the trans community in Moldova, have internalised their stigmatisation and often do not want to be associated with an LGBT organisation.

Artiom Zavadovsky is the LGBT Community Development Programme Coordinator at the GENDERDOC-M Information Centre and one of the first openly cisgender gay persons in Moldova. Working locally and regionally, he reaches out to both the LGBT communities and the general public to empower and engage the former in the common fight for equality and to raise awareness of LGBT issues, and decrease the high-level homophobia and transphobia, among the latter. His portfolio in GENDERDOC-M encompasses community organising and development as well as reaching out to the transgender communities.

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With the opportunities provided by the ProTrans project, GENDERDOC-M has increased its capacity to work with trans individuals and become more trans inclusive, while its staff, consisting of cisgender lesbians, gays and heterosexuals, has expanded organisational knowledge on trans-specific issues. During the project-implementation period, new transgender and gender non-conforming people reached out to the organisation and even became volunteers. The organisation published a leaflet for trans people and the general public with useful information on the trans issues it covers on its website and in a separate section and is a port group for the trans community, was published on GENDERDOC-M’s website in a separate section and is accessible to everyone.

GENDERDOC-M held eight bimonthly meetings on various topics, including transphobic violence, for the trans community, facilitated a movie screening and discussion on the International Transgender Day of Remembrance, organised another movie screening and discussion on the International Transgender Day of Visibility. The idea to carry out the flashmob came from a human-rights activist whose 18-year-old daughter is a trans person. Another activity, the multimedia collective reading performance, held on International Coming Out Day, featured personal stories of transsexual individuals from Moldova. A Trans Round was included in the two LGBT Trivia Quizzes, which aimed to raise awareness about transgender people and issues among members of the lesbian, gay and bisexual community who participated in this entertainment activity. Another project achievement was outreach to previously underserved individuals, namely cross-dressers, which was mainly done on-line through dating websites.

During the ProTrans project implementation period, GENDERDOC-M continued to provide free and confidential psychological counselling and legal aid to trans individuals in cases of discrimination and psychological and physical violence, as well as in the legal gender-recognition process.

In July 2015, my husband and I visited a friend of mine for her birthday in the village where I come from. At around midnight, my friend was visited by a male acquaintance of hers who came in with seven other men. He insulted us, calling me a “fag” and questioning whether I was a man or a woman. Then he physically assaulted us. I immediately called a GENDERDOC-M representative, who advised me to call the police and undergo a forensic medical examination.

When we returned to Chisinau, we asked for psychological counselling with the GENDERDOC-M’s psychologist. While the police investigation is underway, we are benefitting from the counselling because GENDERDOC-M is the only place we could receive it from.

In Moldova, a 32-year-old transsexual woman

For me, as for a trans person, participation in group meetings and other activities organised by GENDERDOC-M is a lucky opportunity to feel accepted, to feel that I belong without needing to hide or being ashamed of my gender identity. The support I receive is priceless. Outside GENDERDOC-M, I also have a circle of friends who know about my gender identity and have nothing against it, but I have a sense that I look weird in their eyes. This makes it difficult; it creates barriers. Participating in GENDERDOC-M’s activities, I feel there’s a place for me in the world.

It is important for LGBT organisations, such as GENDERDOC-M, to work more on improving the situation of trans people in the country, and fighting for their rights, because trans people are part of this society and their interests must be taken into account. I believe many trans people are uncomfortable with the fact that, formally, there are only men and women in society. Personally for me, it causes a great deal of inconvenience, which would not be the case if there were a place for us. If people get used to the fact that we exist and thus perceive us as something natural, our lives will improve. And for this, of course, we need to fight.

Fortunately, I haven’t faced any aggressive manifestation of transphobia in Moldova yet. However, there have been instances when strangers have bothered me with questions about my identity and private life or, walking behind me on the street, have commented on my actions and called me “it”. There are plenty of side glances and glares, but I haven’t experienced any violence. I’m cautious, and I try not to provoke any potential transphobes, but I dislike the fact that I need to be careful. I want to be open. I want to be able to talk about myself as the male gender without fearing any aggressive reaction, ridicule or questions. I understand those trans people who prefer to stay in the shadows without attracting any attention. However, I disagree with this position. I’m fine with being trans, and I want to be trans, even if it means pain and fear for a “true” gay. I want to tell society, “I am, and this is the way I am” and, in hope of change, “Ok, we get it. We’ll keep this in mind.” However, for this to happen, we must do something so others see and hear us, and, eventually, get used to us as another type of normal.

5, 26-year-old trans man

In Moldova, a 32-year-old transsexual woman

The Law on Civil Status Documents contains a single provision (Article 66, “Request of modification, correction or completion of a civil status document”) that implicitly refers to transgender individuals and their right to have their preferred gender (male or female only) legally recognised. Paragraph 2 of Article 66 stipulates that “The State Registry Office satisfies the request of modification, correction or completion of a civil status document if there is no litigation between the parties concerned in cases when: c) applicant submits an offi-

Structural and institutional violence

Currently, Moldova lacks any legal gender-recognition mechanism to regulate or facilitate the procedure of changing identification documents issued by the state (including birth certificates) for transgender individuals. The lack of documents corresponding to one’s de facto physical appearance and identity constitutes a real obstacle to employment, border crossing, voting and opening a bank account, as well as in other spheres where documents are required.
Countries: Moldova

Moreover, in 2012, when two transsexual women requested that the State Registry Office change their names and gender marker on their birth certificates, based on the certificate issued by the Gender Dysphoria Commission, their application was refused due to the State Registry Office’s unwillingness to “arbitrarily” interpret the vaguely worded Article 66. These women then filed a lawsuit contesting the State Registry Office’s refusal, which they later won in the Chișinău Court of Appeal. It was a very progressive court judgment based on the individual’s right to self-determination and identity recognition, and it obliged the State Registry Office to issue new civil documents to both plaintiffs without compulsory medical or surgical gender-reassignment intervention. This case received a great deal of media attention, which prompted the Ministry of Justice to put pressure on the judges who had issued the decision, as a result of which they arbitrarily revised their ruling and dismissed the plaintiffs’ claim under the false pretext that there were missing documents in their claim (the plaintiffs had forgotten to annex them).

Later, during a meeting with the Deputy Minister of Justice, Mr Vladimir Grosu (who currently holds the portfolio of Minister of Justice), GENDERDOC-M representatives asked him why the Ministry of Justice disagreed with the 2012 Court of Appeal’s progressive ruling. Mr Grosu said that the ruling would lead to legislative change, which would be debated and adopted by the Parliament of Moldova. He said further that during these debates, the Ministry of Justice should represent them. Most prefer to hide their gender identity. That’s why, in the case of a “more successful” transition, they rarely face transphobia. However, there have been several cases of discrimination that have been reported to us. In one case, a transsexual woman transitioned and had her documents changed, as a result of which she is subjected to discrimination and bullying by her co-workers and employer. Other problems arise when people use various public services (e.g. the bank), which maintain institutional databases of clients, including their state-issued individual identity number, which cannot be changed, even after one’s gender identity is legally recognised. During the past two months, we have documented two cases of hate crimes on the grounds of gender identity and gender expression. Moldovan legislation lacks mechanisms for legal gender recognition and change of individual identity numbers for transgender people. Gender identity and gender expression are not recognised as grounds for hate crimes and bias-motivated violence. Transgender people prefer not to report violations of their rights to state authorities out of fear that their gender identity will be disclosed and that they will therefore be subjected to ill-treatment by state officials. Despite the fact that in November 2012 the Supreme Court of Justice issued non-binding recommendations to the lower courts to fully satisfy claims submitted by transgender people who seek legal gender recognition, other Moldovan authorities, such as the Ministry of Justice, continue to fail to understand the human-rights implications of transgender issues and lack the political will to implement a transparent, accessible and quick legal gender-recognition mechanism.

All transgender people who turn to GENDERDOC-M for legal advice do so to receive help in regards to legal gender recognition and change of documents. Currently, it is only possible to change one’s gender in one’s documents by going to court, and the pro bono support our lawyer provides is indispen-
sable because of the legal expertise required and because we cover all legal expenses. Mostly, trans-
gender people lack sufficient resources because they cannot find a job, since their documents don’t represent them. Most prefer to hide their gender identity. That’s why, in the case of a “more success-
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Angela Frolov, Lobby and Advocacy Programme Coordinator and primary legal aid provider at GENDERDOC-M Information Centre
In May 2012, Moldova adopted a comprehensive anti-discrimination law with an extensive and open list of protected criteria. The Law on Ensuring Equality came into force in January 2013. Unfortunately, the protected criteria, listed in Article 1, do not include gender identity, gender expression or sexual orientation. The only sphere of life where one can be protected against discrimination based on their sexual orientation is employment. Gender identity and gender expression are not mentioned in the legislation at all.

Another law – the Law on Activity of the Council on Preventing and Eliminating Discrimination and Ensuring Equality – established the Council on Ensuring Equality, the autonomous state agency responsible for implementing the Law on Ensuring Equality. The Council, which consists of five members elected by the Parliament of Moldova for a five-year term, began its activity on 31 July 2013.

Despite the fact that transgender people in Moldova are occasionally or systematically subjected to various kinds of discrimination, they prefer not to turn to state authorities, including the Council on Ensuring Equality, because of their lack of trust in them and out of fear of being stigmatised for their gender identity or gender expression.

The Criminal Code of the Republic of Moldova contains a number of provisions relating to hate or bias-motivated crimes. Unfortunately, these provisions are almost never applied properly because they are vaguely worded, and because police and prosecutors lack the knowledge and will to consider bias as a motive even where the evidence indicates that bias exists.

On 26 December 2012, new amendments were introduced to the Criminal Code to harmonise domestic legislation after the adoption of the Law on Ensuring Equality. To the Criminal Code was added Article 176, titled “Violation of Citizens’ Equality.” According to Paragraph 1 of the article, “Any distinction, exclusion, restriction or preference in the rights and freedoms of a person or a group of people, any support for discriminatory behaviour in political, economic, social, cultural and other spheres of life on the grounds of race, nationality, ethnicity, language, religion or beliefs, sex, age, disability, opinion, political affiliation, and on any other criterion” is prohibited.

That is, Article 176 of the Criminal Code deems any violation of individuals’ rights and freedoms on the aforementioned grounds and other criteria a crime. It would be more appropriate for the extensive list of grounds contained in the article, save for “any other similar criterion”, to be mentioned in Article 77(d) of the Criminal Code, titled “Aggravating Circumstances.” Article 77(d) already stipulates that the motivation of criminal offences by social, national, racial or religious hatred constitutes an aggravating circumstance and, once proven in court, allows the judiciary to apply the maximum penalty provided for the respective offence.

Currently, Article 77(d) includes only four criteria: social status, nationality, race and religion. However, none of these terms is accompanied by a definition. For example, it is unclear whether the term “social status” refers to economic status, social origin, social behaviour or other criteria. The article also does not include sexual orientation, gender identity or gender expression.

Although it is imperfect, the fact that the Criminal Code treats bias-motivated crimes as serious offences shows the state’s clear understanding of these offences’ special character and the need to differentiate them from other offences. It is important to note, however, that the police, other law-enforcement authorities such as the Prosecutor’s Office and the judiciary are reluctant to consider sexual orientation, gender identity or gender expression as aggravating circumstances for offences that are already listed in the current Criminal Code.

Doina Ioana Străisteanu, lawyer and Member of the Council on Ensuring Equality

It is always easy when the law is clear and predictable. Actually, these are the requirements that a piece of legislation should meet and that ensure that people understand the legal norms, and the changes in their behaviour or opinions that are expected based on this particular law. Gender identity and gender expression are not protected by Article 1 of the Law on Ensuring Equality. During its two years of activity, the Council on Preventing and Eliminating Discrimination and Ensuring Equality (Moldova’s equality body) hasn't received a single complaint concerning discrimination based on gender identity or gender expression. To avoid a situation in which the Council issues a decision confirming such discrimination and the defendant appeals it, thus delaying legal redress for the victim of discrimination, it is necessary for both criteria to be mentioned explicitly in the law. This would also help avoid useless court proceedings.
Countries: Moldova

Article 346 of the Criminal Code prohibits “deliberate actions or public exhortations, including through the mass media, in written and electronic form, intended to incite national enmity or discord, racial or religious hatred, humiliating national honour and dignity or directly or indirectly limit the rights or determine the direct or indirect benefits of citizens on the grounds of their national identity, race or religion”. However, Article 346 also contains unclear terminology, e.g. “humiliate national honour and dignity”, “directly or indirectly limit the rights” or “determine the direct and indirect benefits of citizens”. Article 346 criminalises hate speech, but it does not provide sanctions for hate speech on the grounds of sexual orientation, gender identity or gender expression. Neither Article 176 nor Article 346 are hate-crimes provisions, nor are they applied by the police and other law-enforcement authorities in instances of bias-motivated crimes and incidents committed against LGBT people in Moldova. The only legal provision applied in such cases is Article 21 of the Law on Freedom of the Protection of LGBT individuals and groups from discrimination and violence against transgender and gender non-conforming individuals, which has resulted in an increase in the number of documented cases concerning discrimination and violence against transgender and gender non-conforming people. Several incidents of hate speech have also been registered, similarly to other ProTrans partners, in relation to the 2014 Eurovision Song Contest winner, Conchita Wurst.

SOCIAL VIOLENCE
One of GENDERDOC-M Information Centre’s activities is to monitor and document discrimination, bias-motivated violence and other rights violations committed against individuals on the grounds of sexual orientation, gender identity and gender expression. The ProTrans project has helped GENDERDOC-M staff improve their outreach to the trans community and gender non-conforming individuals, which has resulted in an increase in the number of documented cases concerning discrimination and violence against transgender and gender non-conforming people. Several incidents of hate speech have also been registered, similarly to other ProTrans partners, in relation to the 2014 Eurovision Song Contest winner, Conchita Wurst.

For the record

1. In 2014, a 36-year-old transsexual woman continued to be systematically subjected to harassment at work by her colleagues and management. The harassment had begun when she had begun the transition process three years earlier, and it did not cease even after she had received new identity documents confirming her gender identity. Her co-workers and management refused to address her by her chosen gender and name, and her colleagues laughed behind her back every time she passed by. She did not turn to state authorities for assistance “in order not to aggravate the situation”.

2. In June 2014, Igor Dodon, the infamous president of the Party of Socialists of the Republic of Moldova, which openly promotes a pro-Putin agenda, released a political commercial outlining the “vices” of the European Union and calling for a referendum on Moldova’s future geo-political alignment: pro-EU or pro-Russia. The commercial used an image of Conchita Wurst, the then-recent drag winner of the Eurovision Song Contest. Accompanying the image of Conchita was the word “Values?”, thereby implying that EU is immoral because a person in drag won the major international music show.

3. In March 2015, a 22-year-old self-identified androgynous person from Ukraine, who has been seeking asylum in Moldova since February 2015 on the basis of the conflict in Eastern Ukraine, was subjected to degrading and humiliating treatment from a female doctor he had gone to see for a refugee medical certificate due to his feminine gender expression. When he took off his shirt and the doctor saw his pierced naval, she called him a “hermaphrodite” and asked if he had male genitals. Upon receiving an affirmative answer, she said, “It’s good that you haven’t cut them off”. The victim did not report this case to the police or any other state authority due to the lack of information about such possibilities. According to the victim, he is subjected to frequent harassment and verbal violence (at least once a week) on streets of Chișinău due to his feminine looks and clothes. People on street often question his gender by asking if he is a boy or a girl or tell him to pull down his pants so they can see his genitals. On the street where the victim temporarily resides, a 13-year-old girl calls him a “fag” every time he passes by.

4. In May 2015, Igor Dodon, president of the Party of Socialists of the Republic of Moldova, released another political commercial prior to the country-wide local elections on 14 June. The commercial used an image of Conchita Wurst, the then-recent drag winner of the Eurovision Song Contest. Accompanying the image of Conchita was the word “Values?”, thereby implying that EU is immoral because a person in drag won the major international music show.

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1. In 2014, a 36-year-old transsexual woman continued to be systematically subjected to harassment at work by her colleagues and management. The harassment had begun when she had begun the transition process three years earlier, and it did not cease even after she had received new identity documents confirming her gender identity. Her co-workers and management refused to address her by her chosen gender and name, and her colleagues laughed behind her back every time she passed by. She did not turn to state authorities for assistance “in order not to aggravate the situation”.

2. In June 2014, Igor Dodon, the infamous president of the Party of Socialists of the Republic of Moldova, which openly promotes a pro-Putin agenda, released a political commercial outlining the “vices” of the European Union and calling for a referendum on Moldova’s future geo-political alignment: pro-EU or pro-Russia. The commercial used an image of Conchita Wurst, the then-recent drag winner of the Eurovision Song Contest. Accompanying the image of Conchita was the word “Values?”, thereby implying that EU is immoral because a person in drag won the major international music show.

3. In March 2015, a 22-year-old self-identified androgynous person from Ukraine, who has been seeking asylum in Moldova since February 2015 on the basis of the conflict in Eastern Ukraine, was subjected to degrading and humiliating treatment from a female doctor he had gone to see for a refugee medical certificate due to his feminine gender expression. When he took off his shirt and the doctor saw his pierced naval, she called him a “hermaphrodite” and asked if he had male genitals. Upon receiving an affirmative answer, she said, “It’s good that you haven’t cut them off”. The victim did not report this case to the police or any other state authority due to the lack of information about such possibilities. According to the victim, he is subjected to frequent harassment and verbal violence (at least once a week) on streets of Chișinău due to his feminine looks and clothes. People on street often question his gender by asking if he is a boy or a girl or tell him to pull down his pants so they can see his genitals. On the street where the victim temporarily resides, a 13-year-old girl calls him a “fag” every time he passes by.

4. In May 2015, Igor Dodon, president of the Party of Socialists of the Republic of Moldova, released another political commercial prior to the country-wide local elections on 14 June. The commercial used an image of Conchita Wurst, the then-recent drag winner of the Eurovision Song Contest. Accompanying the image of Conchita was the word “Values?”, thereby implying that EU is immoral because a person in drag won the major international music show.
GENDERDOC-M Information Centre carries out constant monitoring of Moldovan mass media with regard to its coverage of LGBT issues and (mis)representation of LGBT people. Due to the almost zero visibility of trans individuals and communities in society, there is little coverage of trans issues in the traditional or new media. Occasionally, there are reports on or anonymous interviews with transsexual individuals that are mostly neutral or positive. However, after Austrian drag performer Conchita Wurst won the 2014 Eurovision song contest, her stage persona disturbed many people in Moldova, who used the Internet to disseminate hatefull, transphobic opinions about her.

In June 2014, a non-alcoholic beverage company, Rusnac-MoldAqua, launched a two-part TV commercial called “Unexpected Adventures with Letto” for their beverage brand “Letto”. In the first commercial, a group of stereotypically represented rich young women leave what appears to be a shopping mall, escorted by two bodyguards. As they are about to get into a car, one of the women takes out a bottle of Letto. Suddenly, they are splashed by a caricatured male character, who rides through a puddle on his scooter, grabs the bottle and rides away. In the second video, when the man tries to redeem the bottle cap for a tablet computer, he is kidnapped by the two bodyguards and driven in a van to a garage, where he is chained to a sofa and left alone in the dark. When the doors open, an impersonator of Conchita Wurst enters and slowly walks toward him with the presumable intention of torturing or sexually harassing him, which makes him start screaming in fear.

In September 2014, a group of unknown individuals pasted anti-EU and anti-LGBT stickers containing an image of Conchita Wurst in public spaces throughout Chișinău. Similar stickers with anti-Pride messages, also containing an image of Conchita Wurst, were pasted in public spaces in May 2015 urging the population to stop the annual Pride March for Equality.

Direct transphobic violence

The implementation of ProTrans has seen numerous violent attacks against GENDERDOC-M by individuals and right-wing extremist gangs, such as “Occupy Pederophilia”.

For the record

1. On 17 May 2014, at the annual “Rainbow over Dniester” LGBT Pride Festival, GENDERDOC-M held the second LGBT Pride March for Equality in Chișinău titled “It’s time to be yourself!” Around 120 people joined the march, which took place in the city centre on the International Day against Homophobia and Transphobia. Police protected participants from counterdemonstrators, several of whom were detained. An unknown young man attempted to hinder the peaceful course of the march. He tried to rip a banner with an equality message away from the activists who were carrying it in the front line and also attempted to block people from marching further. Two police officers reacted immediately and tried to detain the perpetrator, who was shouting “No to homosexuality!” When the two officers removed him from the scene to the side and unblocked the way, a cisgender female TV reporter approached the perpetrator, inquiring about the motive for his actions. The perpetrator asked the reporter: “Are you a woman or Conchita?”, referring to the recent drag winner of the Eurovision Song Contest.
2. On 20 September 2014, members of the infamous right-wing extremist gang “Occupy Paedophilia” carried out an attack on the GENDERDOC-M office, where around 40 LGBT community members and organisation staff had gathered to go on a field trip. The eight assailants (some of them visibly minors) were wearing medical masks on their faces and threw eggs over the fence, hitting several people, the courtyard and the walls of the building. One of the assailants shouted “No to fags!” The police fined the gang leader MDL 1,000 (EUR 50) for hooliganism (an administrative offence). No charges for bias-motivated violence were laid. Five minutes prior to the attack, a group of eight young people, among whom was the gang leader Stanislav Ghibadulin, were spotted open-faced in close proximity to the office by three GENDERDOC-M employees. The latter immediately warned the people at the office about a possible assault by telephone, and they managed to enter organisation’s premises safely. During the attack, GENDERDOC-M’s director told others to push the alarm button and call the police. The assailants heard these indications and ran away. Police arrived shortly and made a report.

GENDERDOC-M’s lawyer requested protection measures for the organisation and its members, as well as constant police patrol of the street where the office is located. She received no response from the police to either of the requests. The organisation was only informed about the fact that Ghibadulin had been fined MDL 1000 (EUR 50) for the attack on the office. Thus, in spite of opening a criminal investigation into the homophobic hate crime, police simply fined the leader of the perpetrators. GENDERDOC-M’s lawyer checked the national court database and found out that Ghibadulin had appealed the applicability of the fine in court and most likely did not pay it all because the three-month period during which an offender is supposed to pay fines for administrative offences had passed.

3. On 11 October 2014, International Coming Out Day, and only two weeks after the attack on GENDERDOC-M’s offices, eight members of “Occupy Paedophilia”, including their leader, showed up at the collective reading of LGBT people’s personal stories, held at a Chișinău theatre. They intruded into the room after the event had begun. Although they did not manifest any violent behaviour, organisers had to suspend the activity due to a fear of violence. The gang members left the venue and the area before the police arrived. Their unexpected visit was an act of pure intimidation, and everyone in the room felt unsafe. After the extremists had left, the collective reading performance was resumed.

In this increasingly homo- and transphobic climate in Moldova, several cases of direct violence on the ground of gender identity and expression have also been recorded by GENDERDOC-M during ProTrans.

For the record

1. On 21 May 2015, the 22-year-old self-identified androgynous person from Ukraine was physically assaulted by an unknown man on the way to a university in Chișinău, where he attends evening Romanian-language courses. Standing at the bus station waiting for the bus, he felt someone pulling at the right shoulder of his shirt. He was forcefully turned around by a seemingly drunk man in his late 20s, who grabbed the chest of his shirt. The assailant was much taller and stronger than the victim. He was shouting in Romanian, but the victim could hardly understand him because he was unfamiliar with the perpetrator’s dialect. The only words he understood were “you are a fag” and “pederasty in our country”. The assailant tore the cap off the victim’s head and started to pull him to the side over the flowerbed. Male passers-by did not react at all, while female passers-by tried to intervene. The assailant tried to punch victim in the face, but the young man managed to avoid being hit and then broke free from the assailant and ran away. The victim did not call the police, because he had previously signed some papers at the Migration and Asylum Bureau stipulating that he would not enter into conflict with the local population. He didn’t know this incident wouldn’t qualify as a violation of that condition.

C., 22-year-old androgynous asylum seeker from Ukraine
2. On 3 July 2015, a 35-year-old butch lesbian was verbally and physically assaulted by her cisgender male neighbour in front of her apartment building’s staircase while she was chatting with another neighbour. The assailant had tried to interfere in their conversation and had been politely asked to stop. He was obviously drunk and told the 35-year-old victim that he had been living in that building for years and that people like her should not live there and should not live at all. Then he told her that she was an “it” and that he could beat her and would not be charged for it. He hit her four times in the face and twice in the stomach and kicked her in the groin. The victim told him she would call the police, but the assailant said that the police would not charge him for anything and that people like her should be beaten. The victim went to the police station to file a formal complaint. When she returned, the assailant physically attacked her again and took her mobile phone. She called the police, and when they arrived, the assailant continued threatening and ridiculing her in front of them. The assailant was detained, and the victim went to the police station to file another complaint. Her mobile phone has never been returned to her. The police investigation is underway. The assailant had also previously harassed the victim on numerous occasions and had once even tried to enter her apartment without permission.

3. On 27 July 2015, a 31-year-old transsexual woman and her husband were physically assaulted in the woman’s home village by an aggressive cisgender male in his 30s. The couple had gone to visit a friend of the woman for her birthday. At around midnight, the victim’s friend was visited by a male acquaintance, who came in with seven other men. He insulted the victim, calling her a “fag”, questioned whether she was a man or a woman and threatened her with violence. The assailant asked the victim why she had not informed him of her visit to the village and told her that she should not have come there in the first place, because she was an embarrassment to the entire village. When she told him to leave her alone, the assailant hit her head and body several times, and then he beat her husband, who tried to defend her from violence, and called him a “fag” also. The victim immediately called a GENDERDOC-M representative, who advised her to call the police. The next day, she filed a formal complaint with the local police and underwent a forensic medical examination. The police investigation is currently underway.
The ProTrans project provided Gayten-LGBT with the opportunity to focus on monitoring hate crimes and discrimination against trans people in Serbia in a more systematic way and to develop an online monitoring tool and database to record and analyze those incidents. The ProTrans findings have been communicated to stakeholders as a part of our advocacy activities for the adoption of the law on gender identity, as well as to raise awareness on situation of trans people in Serbia.

Jelena Vidić is a psychologist, psychotherapist and activist currently working with Gayten-LGBT on project coordination, research and provision of psycho-social support to trans people. She has worked with people living with HIV/AIDS, sex workers, oncology patients, users of psychiatric services and youth.

The ProTrans project in Serbia was implemented by Gayten-LGBT. One of the main outcomes of this project was the development of an online monitoring tool and database of reported transphobic and homophobic incidents. This monitoring tool and database have been used during this project and will be used in the future. The Gayten-LGBT team has developed the monitoring tool to enable the online reporting of incidents. Designed in accordance with TGEU’s online database, this tool makes it possible for all LGBTIQ people to report transphobic and homophobic incidents.

Though Gayten-LGBT has been engaged in monitoring the homophobic and transphobic incidents reported to it through its community services, the online monitoring tool allows it to collect data more systematically and to offer its beneficiaries the option of online reporting.

In its outreach strategy, Gayten-LGBT relied on several of its support services – individual consultation, support groups and the LGBTIQ helpline. The trans-support group began in 2006, since which time more than 80 people have been members of the group. It is a safe place where trans people can support each other, share experiences and obtain important information on issues that are relevant to them, such as one’s gender-identity experience, coming out, family relations, partner relations, body experiences, information on health issues and referrals.

Peer individual consultations for trans people take place in the form of telephone and Skype calls, e-mails and Facebook messages. Beneficiaries of Gayten-LGBT’s services sometimes find it easier to establish personal contact with one person at the organisation and ob-
tains individual support on demand. During ProTrans, Gayten-LGBT also provided individual psychological consultations for victims of transphobic incidents; however, trans people mainly scheduled consultations for various difficulties they face in everyday life, such as coming out, family relations and transitioning.

The organisation's LGBTIQ helpline has existed for almost ten years. It is open five hours a day every weekday, and it receives an average of 80 calls per year. Trans people call mainly for psychological support, but also to obtain information on legal procedures and gender-confirmation procedures.

The biggest challenge during this project was to motivate trans people to report violent incidents. From Gayten-LGBT's experience, as well as from the experience of Sloboda Prava, a Belgrade-based sex-workers' organisation, the incidents that have been collected through this project are only the tip of the iceberg of everyday discrimination and structural violence faced by trans people in Serbia. Reporting violent incidents always carries the risk of re-traumatisation, and trans people constantly develop strategies to avoid being discriminated against as much as possible, so much so that they often do not regard discriminatory incidents as discriminatory at all.

In order to monitor transphobic incidents against trans sex workers, Gayten-LGBT has established a cooperation agreement with Sloboda Prava (“Equal Rights”), an NGO providing psychosocial and legal support to sex workers. Sloboda Prava is a grassroots organisation that was founded in 2011 by sex-worker peer educators. The organisation is run by sex workers who are supported by sex-workers’ rights activists. Sloboda Prava’s main goal is to protect and support the human rights of at-risk groups, with a focus on sex workers. It aims to promote their empowerment, raise awareness of violence and discrimination against sex workers among the general public and stakeholders and have sex work depenalised/decriminalised. It also works to establish and strengthen partnerships with LGBT and human-rights organisations with similar values and visions. Sloboda Prava and Gayten-LGBT will continue and expand the cooperation beyond this project: they will organise joint workshops on LGBTIQ issues, and especially on trans issues, and are currently exploring the possibility of forming a safe space for trans people and sex workers.

A., a trans sex worker, was standing at a hotspot with two other trans sex workers when a police car approached. The police officer asked them for their ID. When he saw the male gender marker on their IDs, he insulted them and made transphobic and homophobic comments. A. replied that she would write down his registration number and report his behaviour. The officer gave her friends their IDs back but pulled her into his car. He took her to the police station to charge her with prostitution. At the police station, she refused to write a statement admitting that she was engaged in sex work when she was arrested. When the officer did so on her behalf, she refused to sign the paper, saying that it was her right to stand wherever she wanted. The officer forced her to spend the night in custody and let her go in the morning. Other officers did not interfere.

The following case study illustrates the situation faced by trans sex workers on an almost daily basis, as a result of negative societal attitudes towards both trans people and sex workers.

Cooperation with Sloboda Prava is very important for us, because our work has always been based on intersectionality, both when it comes to raising awareness among various stakeholders and when it comes to working directly with the community. During the past 15 years, we have attempted to reach the most marginalised LGBTIQ groups, such as LGBTIQ Roma people, and cooperation with Sloboda Prava has made it possible for us to support trans sex workers and work together to improve their situation.

Besides continuing the cooperation with regards to monitoring hate crimes against trans sex workers, Gayten-LGBT would like to support efforts to have sex work depenalised, and to provide training workshops on LGBTIQ and trans-specific issues to sex workers, as well as assistance with medical referrals when needed. Also, by addressing issues involving trans sex workers, Gayten-LGBT will be able to include this highly marginalised group of trans people in its various activities.
The lack of legal gender recognition is especially incongruous, considering that the Belgrade team for gender identity was formed in 1989 and has been world-renowned for its expertise in gender confirmation surgery for years, so much so that trans people from other countries come to Serbia for surgery. In the early years, the situation regarding gender confirmation surgery was quite complicated, and trans people were subjected to various forms of mistreatment from healthcare professionals, including provisional and high surgery costs, lack of post-surgical care and the negative attitudes of surgeons towards post-op non-heterosexuals. In 2012, the law on health insurance was amended to have 65% of the cost of surgical procedures for “sex changes” covered by public health insurance. In the same year, the Republic Commission (for the treatment of transgender disorders) was established to regulate procedures for gender confirmation processes. Though the costs of surgery are still high, considering the average salary in Serbia and the difficult socio-economic situation of trans people, this amendment has made surgery more accessible to transsexual people, and the guidelines of the Republic Commission have made the entire transition process more transparent and predictable.

However, over the past 26 years, trans people have managed to change their name and gender marker through an unofficial procedure. After they have had their final surgery, trans people are given a medical document stating that their “sex has been changed”. With this certificate, they can ask the registrar to change those data in personal documents. Besides being unofficial, uncertain (everything depends on the good will of the registrar) and often quite costly (due to the need to hire a lawyer), this procedure is unsatisfactory because it provides legal gender recognition only to transsexual people, leaving people of other trans identities unprotected. Also, regardless of its unofficial character, making legal gender recognition depend on surgery means that sterilisation is obligatory.

There are two legal cases that are important for legal gender recognition for transsexual people. According to Decision UŽ-3238/2011 of the Constitutional Court of the Republic of Serbia, which resulted from a complaint from a trans person that the registrar had refused to change data in documents due to incompetence, the registrar is only office responsible for entering and changing an individual’s gender marker in personal documents. In the second case, the Commissioner for the Protection of Equality called for the urgent adoption of an official procedure for legal gender recognition. The case involved the refusal of the Faculty of Law at the University of Belgrade to issue a diploma to a trans person with a new name and gender marker. The Commissioner for the Protection of Equality found that this refusal constituted discrimination and required the Faculty to issue the individual the diploma (number 202 from 24 February 2012).

The absence of an efficient and transparent legal gender recognition procedure has numerous consequences for the everyday lives of trans people. In research conducted in 2012 in cooperation with Gayten-LGBT, the majority of respondents identified the administrative difficulties involved in having one’s gender marker changed as an area in which change is most urgently needed. A direct consequence of the absence of a formal legal gender recognition procedure is the lower socio-economic status of trans people, the perceived difference between an individual’s gender expression and the data on their personal documents, together with the high level of transphobia, makes legal employment almost impossible. Employment is difficult for transsexual people before and during their transition, and for people of other trans identities for their whole lives.
Countries: Serbia

Besides working directly with the community, our activities include advocacy aimed at improving the situation of LGBTQI people in Serbia. One of our major successes in 2015 has been the presentation of a policy paper on the situation of trans people in Serbia in the National Assembly. As an expert organisation on trans issues, Gayten-LGBT was requested to create a policy paper on the situation of trans people in Serbia as part of the National Assembly’s LGBT Path to Institutions: Bridging the Gap project, whose purpose is to analyse LGBTI issues and propose measures to improve the quality of life of LGBTI citizens. Emphasising legal gender recognition, this policy paper analyses the current situation of trans people (including the difficulties they face in the areas of education, employment, socio-economic status and healthcare), examines domestic legislation and international standards as regards trans people and makes recommendations for the improvement of the situation of trans people in Serbia. Presentations of policy papers were held in March and April 2015 in the National Assembly, hosted by the Board for Minority and Human Rights and Gender Equality. The policy paper was presented at both events and offers a comprehensive analysis of the situation of trans people and the specific challenges they face in their everyday lives. After the presentations, the authors of every policy paper were asked to make one priority recommendation to the Board, which the Board would communicate to the National Assembly. The main recommendation of our policy paper was that the National Assembly promptly adopt Gayten-LGBT’s model law on gender identity, which would regulate legal gender recognition for trans people.

The situation is particularly difficult for trans sex workers, one of the most marginalised groups in Serbian society. Trans people engage in sex work because of the difficulties they face in finding other jobs, and they do so in order to earn money for gender-confirmation surgery, but also because sex work often provides them with the only opportunity to live in their identity. In Serbia, sex work is a marginalisation punishable by up to 30 days in prison. Trans sex workers who work on the street are exposed to high levels of violence, including physical and sexual violence from police and illegal arrests. According to the law, sex workers can be charged only if caught in the act, or if a sex worker, a client or a witness makes a statement regarding the exchange of money for sex. In practice, however, sex workers are arrested for standing in hot spots (areas where sex workers gather and where sex work takes place) and then asked to retroactively write statements at the police station, which are used against them. Media representations and reporting of trans people continue to be quite sensationalistic, but there has also been significant improvement in recent years due to the increasing visibility of trans people. A major breakthrough has been the reporting on Andresa Pejcic, a famous Australian model born in the former Yugoslavia. Her Serbian-Croatian background made her story even more interesting for Serbian media. In higher-quality magazines, articles are less sensationalistic, but readers’ unedited comments can be openly transphobic. Apart from Andresa, two other trans women have frequently been featured in Serbian media – Maza, a pop singer, and Helena, a former major in the Serbian army. However, Serbian media remains inaccessible to people of other trans identities. Also, the language used in these articles still needs improvement: “sex change” is the only term used for the gender-confirmation process, and when translating foreign articles substantial mistakes are quite common (“bi-gender” is translated as “bi-polar”, “transgender” as “transgendered”, and so on).

The most prominent case of hate speech in the media is related to the 2014 Eurovision Song Contest winner, Conchita Wurst. A few days after the contest, there were terrible floods in Serbia, and all Serbian media outlets broadcast the statement of the Archbishop of the Serbian Orthodox Church, who said that God was using the floods to encourage people to repent, and that the weather conditions in Europe were God’s punishment for this year’s Eurovision contest winner, who claims to be Jesus Christ and promotes the dissolution of human nature.6

What is happening in Europe right now? That unfortunate female person, male person, I don’t know his name, is being affirmed as Jesus, promoted and put on a pedestal as a role model for future generations, and in that way human nature and human beings are being destroyed. For example, preparations are now again being made for that parade, that shameful parade, which is destructive of the Christian ethics, of nature, of human nature and the purpose of human nature. All those are signs of the times. It is obvious that God still loves us because He is sending us this warning, like the warning He sent to Serbia – those warnings to make us reflect upon ourselves and the path we have taken, the path we are taking and that we accept as a normal human path”. This example of hate speech is particularly worrisome because it is not his first statement of this kind – this archbishop always makes similar statements before Pride Marches – and especially considering that over 90 per cent of Serbians identify as Orthodox Christians. Just before this statement, the Patriarch of the Serbian Orthodox Church directly blamed the Pride March, previously scheduled for first the Sunday after the floods, for this natural disaster.

Societal violence

Of all the incidents reported to ProTrans, 25 per cent involve discrimination, of which four (66%) are related to legal gender recognition. Two transsexual persons had similar difficulties trying to change their personal documents after their final surgery in their transition process: in both cases, the registrar officer stated that there is no official procedure for that request and told them to go to court. In one of the cases, the registrar officer recommended that the trans person hire two specific lawyers to represent her case, which required a significant amount of money. In both cases, the process took months and was successful only after the intervention of a third party close to the individuals. This situation is consistent with the experiences of other trans people over the years: though the process of changing one’s
gender marker does sometimes go smoothly, more often than not it is quite complicated and completely arbitrary, depending only on the particular official at a particular registrar’s office.

Also connected to the absence of a legal gender-recognition procedure inclusive of people of all trans identities are difficulties trans people face when they need to show personal documents with a gender marker and name that are inconsistent with their perceived gender. Experiences shared in Gayten-LGBT’s support group demonstrate that these situations occur so often that trans people do not recognise them as either institution- al violence or discriminatory. In an incident reported during the course of this project, one person had difficulty trying to change an identity card that had expired: the administrative worker was very insensitive and kept on employing the individual’s female name despite his attempt to explain the situation, so that by the end everybody in the waiting room was staring at him. This incident continued when the person left the building: a couple of people followed him out to the street and made loud comments about his situation in front of pass- ers-by. Attempts to embarrass trans people in public by exposing their gender identity are not rare, and they have been reported by other trans people as well.

Before they obtain legal gender recognition, trans people usually develop various strategies in order to minimise the distress related to coming out. One trans man reported to Gayten-LGBT that he always goes to the same bank branch, believing that everybody there knows his situation. However, one day he went to that branch to withdraw money and encountered two new employees, who started asking questions regarding the difference between his gender marker and name and his perceived gender. He explained that he is a trans man. The employee nodded and took his documents. Then, in consultation with another colleague, she told him that it was not possible to give him any money because his card had expired and suggested that he begin the proce- dure to receive a new card, which the trans person ac- cepted. Once the new card had been issued, he found he could not withdraw money from an ATM machine. He went back to the bank, only to hear from another em- ployee that his old card had not expired and that she did not understand why a new card had been issued.

Discrimination is prevalent in the healthcare system as well. The current gender-confirmation process includes procedures from a general practitioner to specialists – psychiatrists, endocrinologists and surgeons – who are members of the team for gender identity. However, gen- eral practitioners are often not informed about either the procedure itself or the spectrum of trans identities, and in some cases trans people report homophobic and transphobic incidents. One trans woman reported that her request for a referral for a psychiatrist in Belgrade was denied, and instead her doctor sent her to a local psychiatrist due to lack of knowledge of the procedure. Communication with the local psychiatrist was very unpleasant, and the psychiatrist declared that he had never heard of such a thing as trans people, and he recorded homophobic remarks and diagnosed homosexuality on her health report (in Serbia, this diagnosis is prohibited by both medical regulations and legislation).

There is a significant absence of cases of workplace discrimination in the reports received by Gayten-LGBT. Based on Gayten-LGBT’s previous work with trans people in Serbia, there are several reasons for this: trans people do not perceive those cases as discrimina- tion due to internalised transphobia/gender prejudice, if they have a job during their transition process, it is usu- ally unofficial and without any documentation (or legal protection) in order to avoid coming out to the employ- er; and it is difficult to find any job at all during the tran- sition process (as a result of which sex work is the only option for some trans people). However, one case that received a great deal of media attention is that of Hel- ena, a former major in the Serbian army who accepted the army’s offer of early retirement. But among the rea- sons the army gave for its decision was that Helena had been diagnosed with transsexualism, which was harm- ful to the army’s reputation. Based on this statement, Helena submitted a complaint to the Commissioner for Protection of Equality, who found that there had been discrimination and recommended that the army apolog- ize to Helena and organise education on gender identi- ty in the military.

“...take a deep breath, 48 hours is not a long time, there is no place where we have such a discrimination. This is the same thing that we have always been fighting for, and we will continue to fight for it. The fight for our rights is not over, it is just beginning.”

Kristiàn Randjelović, trans activist and support-group facilitator
DIRECT TRANSPHOBIC VIOLENCE

Three-quarters of the incidents reported during the ProTrans project were violent incidents, of which 55 per cent were committed against sex workers and were re-
ported to Sloboda Prava. Because of the intersectional discrimination experienced by trans sex workers in Ser-
bia, a separate analysis of these cases is presented here.

The reported cases include four cases of harassment and verbal and/or physical violence on the street and on public transportation, one case of a trans person being verbally assault in the healthcare system and one case of sexual harassment and verbal assault by a landlord.

In assaults on the street and public transportation, per-
petrators are usually unknown to the victim.

The incident involving the healthcare system was re-
ported by a trans woman living in a smaller town in Southern Serbia. She requested therapy in order to begin the gender-confirmation process. However, two medical doctors, members of the National Health Insur-
ance Fund’s Committee, were openly insulting towards her, stating that she would never get that referral, and that people like her should be expatriated from Serbia.

Another trans woman reported an incident with her landlord, who sexually harassed her when he discov-
ered her gender identity, when she refused to have sex with him, he threatened her with his son, a member of an extremist organisation.

A transsexual woman who, after gender-confirmation surgery, returned to her hometown in Vojvodina report-
ed repeated verbal assaults by persons who knew about her gender identity. Apart from threatening behaviour, one of the incidents involved an involuntary outing; a person who knew about her transition told her story to every person who came into his shop. An additional problem is that this man’s shop is on her way to the bus station in the town centre, so she is exposed to various comments on a daily basis. As a consequence, she lives in constant distress and fear.

Another woman reported an incident with her neigh-
brbour, who is a member of a well-known extremist organisation. He confronted her stating that she would never get that referral, and that people like her should be expatriated from Serbia.

Another trans woman reported an incident with her family members due to her gender identity.

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Another trans woman reported an incident with her family members due to her gender identity.

Another difficult but typical situation was that reported by a trans woman, who experienced verbal abuse from her family members due to her gender identity.

"My landlord tried to force me to have sex with him because he “has never had sex with a trans woman”.

When I refused, he started threatening me with his son, who is a member of well-known extremist organisation."

"I thought they were going to kill me, 0, trans woman, after physical assault"

Trans sex workers who work on the street are in a particu-
larly difficult situation when it comes to violence and the lack of police and legal protection. Sex workers’ lives and rights are violated by various parties – the police, clients, unknown persons on the street and family members.

In Serbia, sex work has the status of a misdemeanour punishable by up to 30 days in prison. A person can be arrested only when caught in the act or if either the sex worker or client makes a written statement declaring that they were engaged in a sex-work transaction. In practice, however, sex workers are arrested for being in hot spots and charged on the basis of statements they are required to write at the police station. Though sex work-
ers’ knowledge of their rights can sometimes be enough to keep police from abusing their authority, it more typi-
cally puts sex workers in danger because police officers react violently to the assertion of their rights.

Another difficult but typical situation was that reported by a trans woman, who experienced verbal abuse from her family members due to her gender identity.

"My landlord tried to force me to have sex with him because he “has never had sex with a trans woman”.

When I refused, he started threatening me with his son, who is a member of well-known extremist organisation."

"I thought they were going to kill me, 0, trans woman, after physical assault"

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During the ProTrans project, ten transphobic incidents were reported to Sloboda Prava. All incidents includ-
ed verbal assault – insults, transphobic comments and threats. Seventy per cent of the cases also involved physical violence. In one case, a sex worker was sexu-
ally abused by police officers, while in another a person was arrested illegally and detained overnight. In three cases, the perpetrators were unknown to the victims, and in one case the perpetrator was a client. It is strik-
ing that in 60 per cent of the cases the perpetrator was a police officer. Police officers committed verbal, sexual and physical assaults. In light of this, it is not surprising that all sex workers who reported being assaulted to Sloboda Prava refused to report the incidents to the police. By engaging in various kinds of abuse, the police send a clear message to all of society that it is acceptable to attack sex workers, making their situation even more difficult. The only support sex workers receive comes from other sex workers (which is documented in these cases as well) and Sloboda Prava. Because trans sex workers are at the very margins of an already seriously marginalised group, it is crucial to continue and further develop programmes that will provide them with legal and psychosocial counselling and to improve and imple-
ment a system for monitoring police behaviour in order to begin building trust between those two groups.
For the record

1. A trans woman sex worker was standing on the street with another sex worker when the police approached them and asked for their IDs. When one of the officers saw their IDs, he yelled at the trans woman: “I told you not to be here again!” Then he slapped her in the face and started kicking her. She replied that there was no reason to be aggressive, but the officer told her to leave, and that they would arrest her the next time they saw her.

2. A trans person was arrested for standing near a hot spot because she did not have her ID when the police officer asked her to identify herself. She was then (illegally) asked to write a statement that she had had sex for money, and she was sentenced to ten days in prison for that offence and an additional ten days for not having her ID.

3. Two trans sex workers were standing near a hot spot when two football fans, obviously drunk, approached them and started insulting them. One of the women used her bag to defend herself, but one of the perpetrators pulled out a knife. The other woman managed to hit him, as a result of which he dropped the knife and they left.

“Trans sex workers used to be searched by male police officers only. Now they are searched by female officers above the waist, and by male officers below waist. Also, they used to cut their hair as short as possible as part of preparation for prison.”

Mario Knezevic, sex-workers’ rights activist
The ProTrans project has helped us improve our capacity to monitor human-rights violations against trans people in Turkey. Using the tools we have produced within the scope of the project has enabled us to carry out systematic advocacy and lobbying while mobilising the trans community to pursue their rights through legal channels.

ProTrans in Turkey

Kemal Ördek is the founding chair of Red Umbrella Sexual Health and Human Rights Association (Red Umbrella), which is a trans- and sex-workers’ rights NGO based in Ankara, Turkey. Kemal has managed projects monitoring and documenting violence and discrimination against trans people, providing legal aid to sex-worker victims of human-rights violations, advocating and lobbying for the enhancement of the legal and de facto situation of registered brothel workers and providing capacity-building for sex workers and trans people on sexual and reproductive health.

ProTrans has been a crucial project for Red Umbrella, as it has enabled the organisation to systematically monitor human-rights violations against trans people in Turkey. Transphobic violence often goes unreported and undocumented. ProTrans has provided Red Umbrella with tools to document cases of transphobic violence and use them in advocacy work at visibility- and awareness-raising events and in human-rights reports. Within the scope of the project, the organisation provided legal aid to survivors of violence. It was a very important aspect of the project, and several trans people made use of this support to learn how to use the legal system. Many trans people, especially trans women who do sex work, are not able to use the legal system due to a lack of economic means and information on how and where to file complaints against perpetrators of violence. Red Umbrella, with the support of four lawyers, has provided legal advice to survivors while assisting them in filing complaints and following up on their cases.

We have produced a brochure that we used in home visits to trans people in order to inform them about the project and what they can do to access our organisation, our
Yağmur Saraçoğlu, a trans activist from Bursa, states: “I was with LGBTI activists from Bursa, and we planned to enter İstiklal Street, where the march was supposed to take place. We were stopped by the police and asked to leave. They started to insult us, and we were attacked with water cannons. I felt my skin burning, and I realised I had been shot in the leg with rubber bullets”.

Our lawyers have provided legal advice to over 50 trans people, of whom 20 were assisted in filing complaints against perpetrators. Within the project period, some legal successes were achieved. For instance, the perpetrator of violence against Ela, a trans sex worker survivor of a gun attack, was sentenced to 16 years’ imprisonment. A case was opened against two police officers who physically attacked another trans sex worker, Çisem, in Ankara in November 2014. Several arbitrary police fines issued against trans-women sex workers were annulled in the courts. Some local court decisions regarding arbitrary police actions against trans women were taken to higher courts.

Red Umbrella organised a panel discussion during Istanbul Pride Week on 26 June 2015, at which representatives of TGEU, Serbia’s Gayten-LGBT and Red Umbrella spoke about their experiences with and the successes of TGEU, Serbia’s Gayten-LGBT and Red Umbrella. This panel provided the audience with an overview of the human-rights situation of trans people in Europe and specifically focused on Turkey.

Istanbul Pride Week was closed two days later by a violent police attack against the participants, during which several LGBTI people were beaten by the police, detained or injured by rubber bullets and tear gas. Eyleş Yağmur Saraçoğlu, a trans activist from Bursa, states: “I had been shot in the leg with rubber bullets”.

No, unfortunately there are no specific legal regulations. Although rights-based organisations in Turkey have wanted specific anti-discrimination and equality legislation for a long time, it’s not a priority for the government. Article 122 of the Criminal Code (discrimination with hate motive) is the only article regarding discrimination and hate in the criminal law, but it does not mention gender identity, and its definition of a hate crime is restrictive. There is no separate and specific government policy on this issue. Although Pride celebrations were peaceful for 13 years, the disproportionate police violence at this year’s Pride reveals that even the state can move backwards.

Can you talk about trans-women sex workers who experience discrimination? The biggest form of discrimination faced by trans-women sex workers is discrimination in practices. For example, when they are given administrative fines, they are forced to wait at the police station. The requirements are unfair because it de facto custody. They are deprived of lawyer support, and they are subject to police violence, and sometimes insults or harassment. Unfair and arbitrary detentions are also common. A transgender sex worker standing on the street at night can be arrested on the grounds of “disturbing others”. The simple fact of being transgender, apart from being a sex worker, is enough to annoy the police. As well, being transgender is discrimination.

What can be done legally to eliminate discrimination against trans individuals? What laws or policies are required? First, equality before the law, protected under Article 10 of the Constitution, should be extended to include sexual orientation and gender identity. It is essential that these two categories of rights be constitutionally recognised. A well, international human-rights conventions to which Turkey is a signatory should be incorporated into relevant national laws and taken into account by the judiciary. Article 4 of the Istanbul Convention, for example, which imposes positive obligations on the state to protect trans-women against all kinds of private and public human-rights violations, is so important that it should be known and used by legal actors. In addition, it is essential that existing legal norms be taken into consideration by judges and prosecutors. In particular, there should be a broad interpretation of “gender” as a protected ground under the law. As well, judges, prosecutors and lawyers should follow the decisions of the European Court of Human Rights (ECHR). And finally, it is necessary to have a specific law on the prevention of discrimination and the promotion of equality.
STRUCTURAL AND INSTITUTIONAL VIOLENCE

Trans people are among the most vulnerable and marginalised groups in Turkey. There are several reasons for this situation – a lack of legal and policy-based protection from the authorities, widespread transphobic and whorephobic beliefs and attitudes and the criminalisation of sex work. In this section, we describe how trans people are affected by structural and institutional violence, including the lack of trans-inclusive anti-discrimination and hate-criminalisation legislation and a quick and transparent legal gender-recognition procedure.

There is no anti-discrimination legislation to protect trans people in Turkey. Indeed, instead of applying general non-discrimination provisions to trans people, state authorities and judges have used vague legal provisions to actively discriminate against them. State officials publicly denounce LGBT people and “serve to propagate an attitude of hostility” toward LGBT people. Attempts to include references to gender identity in the recently reformed Constitution also failed. The Law to Protect Family and Prevent Violence against Women does not include “gender”, “gender identity” or a definition of “gender-based discrimination or violence”.

Similarly, there is no hate-crime legislation to protect trans people in Turkey. On the contrary, perpetrators of transphobic violence can often rely on the Criminal Code’s Article 29, “unjust provocation”, defence: “a person committing an offence as a result of anger or asperity caused by an unjust act is sentenced to imprisonment for 12 to 18 years instead of life”.

The Code does not define “unjust provocation”, leaving it up to the sentencing judge to determine whether an assault or murder was the result of “unjust provocation”. As a result, judges have routinely used Article 29 to reduce the sentences of those who have killed LGBT individuals. For example, in February 2014, the killer of a trans woman had his life sentence reduced to 18 years under this article because the victim was a “transvestite”.

Trans people are disproportionately targeted by Turkey’s Law on Misdemeanours, which is regularly used to discriminate against trans persons. For example, trans individuals in Istanbul reported being stopped by the police while walking around or working, and being told that they had violated the Law on Misdemeanours by “disturbing the environment”. Article 40 of the Turkish Civil Code regulates legal gender recognition, including abusive requirements such as a multi-discipline diagnosis, divorce if married, an age requirement and sterilisation. Secondly, the process is lengthy and costly. The outcome often depend on the attitudes and experiences of health professionals and judges. A waiting time of two years is not uncommon, a period in which breaches of privacy and discrimination on the basis of documents that do not match the person’s gender identity continue. Many trans people lack proper jobs and sustainable financial support, which adds to the difficulties involved. In 2015, the ECHR rejected the sterilisation requirement for gender reassignment surgery, and therefore for legal gender recognition, as a violation of the right to privacy (Art 8 ECHR).

Many trans people who do not live in large cities do not have access to trans-specific healthcare because of the lack of quality healthcare services and experienced health professionals. Many trans people go to large cities for gender-reassignment treatment. Even in large cities, only a few university hospitals and some private hospitals have experienced health professionals and the required facilities for surgery. Other services, like hormone therapy and psychiatric services, also do not exist in many Turkish cities. As a result, many trans people self-medicate without medical supervision. The lack of medical service also inhibits them from starting and completing the legal gender-recognition process.
Interview with Hayat, a Trans Woman Who Was Refused Access to Healthcare Services

Could you tell us about the discrimination you faced at the hospital, which was also reflected in the media? What have you gone through? On 31 March 2014, after my sex-reassign surgery at the same hospital, in accordance with the guidance of the senior general surgeon, I went to the Beyoğlu District Polyclinic’s Department of Obstetrics and Gynaecology, which is linked to the Prof Dr Resat Belger Training and Research Hospital, in order to receive a prescription for my medication. Although the specialist doctor stated that this was not her area of expertise, I learned discrimination in her attitude. I told her that I was the expert gynaecologist and that I was told she could prescribe the medication. She told me she could not prescribe the medication without an examination. I asked her to examine me and told her that I have wounds and need the prescription. She told me I was man, and I told her that I had received the surgery by court order, and that she did not have the right to behave in that way because I am like any other patient. She told me again that she would not examine me because she did not approve of my situation. I told her that was discrimination, and that I could file a complaint against her. She told me to leave and to do whatever I wanted. I left the hospital in tears. Then I went back there in the afternoon. I explained the situation calmly. The doctor again made discriminatory comments and said, “I do not want to be part of this because you are on the wrong path.” We protested that she has no right to do this. She immediately called security, and we left.
Trans women experience discrimination in access to employment opportunities other than sex work. The TvT survey revealed that the employment situation for trans people in Turkey is among the worst in the world. The question of whether respondents have ever lost their job because of their gender identity was answered in the affirmative by 39 per cent of respondents in Turkey. Furthermore, 52 per cent of respondents stated that they have been refused employment often or once or twice because of their gender identity. These experiences may also be reflected in the number of trans and gender-diverse people who earn their money through sex work. Seventy-six per cent of respondents in Turkey stated that they earn their living by doing sex work. 7

For the record
1. An Internet news site negatively targeted a trans journalist who was physically attacked by the police while following up on a street event. The news site used overtly transphobic language.
2. Some people in Agri reacted against a trans activist’s posters, which were put up in support of Selahattin Demirtas’s candidacy in the presidential elections. Demirtas is an LGBT rights activist and a municipal People’s Democratic Party candidate. People told a newspaper that the posters were promoting immorality.
3. The perpetrator called a trans sex worker on the phone and joked about her gender identity. He made a video of the joke and shared it on the Internet.

Direct transphobic violence
Trans people experience high levels of violence from their family members, partners, clients, organised groups, the police and other perpetrators. Due to transphobia, “sex-worker-phobia” and the lack of protection mechanisms, trans women in particular face the difficulty of living in an unsafe environment.

According to TGEU’s Trans Murder Monitoring data, 37 trans people were murdered in Turkey between 1 January 2008 and 31 December 2014, accounting for 39 per cent of all reported murders in Europe. 8 ProTrans also confirmed that trans people are disproportionately affected by hate crimes, discrimination and hate speech, as confirmed by the 72 cases it recorded in the span of a single year.

These alarming figures demonstrate how regularly murderers and hate crimes are committed against trans people in Turkey. Several incidents of violence, including murders, had a transphobic or “sex-worker-phobic” motive, including the brutal sexual assault, theft and death threats against Kemal Ördek, co-founder of Red Umbrella and former TGEU co-chair, in Ankara on 5 July 2015, which were followed by police threats and insults. 9 In many cases, perpetrators’ sentences have been reduced when they confessed that they had murdered the victims because they found out that they were trans, wanted to restore their family’s honour or panicked at seeing a trans person. Many of the incidents involved an extreme degree of brutality, including dozens of stab wounds, decapitation and the removal of silicone implants or genitals.

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The recent TvT survey showed that 73 per cent of respondents in Turkey have been bullied or attacked because of their identity. The reported forms of violence include death threats, sexual violence, blackmail and extortion, as well as physical aggression. The analysis shows a large variety in the forms of violence they have experienced. Of the 109 respondents, 43 stated that they have received death threats. Attacks including physical violence were reported by 64 people. Furthermore, 56 respondents stated that they have experienced sexual violence.

Trans people also experience high levels of police violence. Existing legislation on sex work paves the way for police officers to use excessive force against sex workers, and trans-women sex workers are continuously harasssed and discriminated against by the police. Human Rights Watch has reported that trans people in Turkey are vulnerable to police abuse in the form of “arbitrary arrest, prohibitive fines, and repressive regimes of medical testing”. 11 In the TvT survey, 75 per cent of the 109 respondents in Turkey reported experiences of police harassment, with 61 per cent stating that they experienced it often. Experiences of police harassment are even higher among trans sex workers. Seventy-nine per cent of trans sex workers in Turkey reported having experienced police harassment, and 62 per cent stated that they have often done so. 12 Furthermore 47 per cent stated that they had been fined by the police often, while 29 per cent stated that they had been fined once or twice. The reasons given for fines are prostitution, cross-dressing and public nuisance. 13
According to research carried out in 2014 by Red Umbrella with trans-women sex workers, 42 per cent of all respondents who experienced physical violence did not report these incidents to the police or to a prosecutor’s office. The reasons for not doing so were a lack of trust in the justice system, fear of being targeted by the police and the belief that they would be victimised again. Of the incidents that were reported, only 11 per cent resulted in cases in which perpetrators received an appropriate sentence. In the other cases, either the police ignored the complaint or judges acquitted the perpetrators or decreased their sentences.

Bihter, a trans-woman survivor of extreme violence

“When I was waiting for my friend at night on a street close to my house, a black car approached me at high speed. A man got out of the back door, came up to me and asked for a racket. I refused, and he grabbed my collar and threatened me. He said, “I will kill you”. I did not have the opportunity to escape. He grabbed my hair. He and other people from the car began to assault me, and when they were about to stab me in the head with a butcher knife, I covered my head with my hand and was severely injured.

Bystanders called the police and ambulance. The police came immediately because the police station was very close by. It took 15 minutes for the ambulance to arrive. The police did not remove the people around and did not even approach me. I got good help from the people around me. I was taken to the hospital by ambulance. The police prevented witnesses from providing statements. Even crime scene investigators did not come to the scene. If the police had made an immediate announcement, they could have caught the perpetrators. Instead, they did not even provide any information to other police officers. I spent 10 hours in surgery at the hospital, and the Esat Police Station did not come to take my statement for three days. After 20 days at the hospital, I went to the police. They said they were investigating the incident. Then I went to the prosecutor’s office. They are always sloppy. I even went to the Prime Minister’s Office, but everyone told me to wait. I provided information regarding the black car to the police station, but they didn’t care. In the hospital, I was not exposed to any discrimination or mistreatment.”

In many cases, police officers who are perpetrators of violence file complaints against trans people in order to deter the victims from filing complaints against them. For instance, three trans sex workers from Ankara were attacked by several police officers on a street, and they filed complaints. Immediately after their complaints, the same police officers charged the victims with “resisting the police” and “insulting the police”. The charges were prosecuted, and three trans sex workers received sentences of a few months’ imprisonment, while their complaints were officially ignored and none of the police officers were disciplined or charged.
For the record
1. The victim was a trans sex worker who worked on the street. She was targeted by two police officers on the street and while she was in her car. The officers used physical and psychological violence against her.

2. The victim was a trans man. He was arrested at a demonstration by several police officers. He was physically attacked by police officers and targeted with transphobic language.

3. A trans-woman sex worker was detained by the police while working on the street. She was taken to the police station and forced to undergo HIV testing. In the process, she was subjected to ill-treatment and transphobic language. She was not permitted to use the female washroom at the police station.

4. A trans woman who attended Istanbul’s LGBTI Pride March was targeted and attacked by the police with plastic bullets, and she received leg injuries.

5. Police stopped the victim while she was working on the street. They insulted, shouted at and slapped her. When she tried to resist, they stopped cars passing by and said, “Take her and do whatever to her”. The victim asked to be taken to the police station because she was afraid of being attacked by other people. They did take her to the police station, where she was beaten and fined.

6. A trans-woman sex worker wanted to work on Mirac Kandili, an Islamic holy night. Some people asked her, “How dare you do this job on a holy night?” As a result, she went to another street, where she was beaten by three people, receiving serious head injuries. The police came, and the victim got into their car, but they did not want to help her because she was trans. The police made her get out of the car, and she fell down. They did not make a record of the incident. When she was taken to the hospital, health personnel did not want to treat her, and she was humiliated by the health staff.

For the record: violence by gangs
1. The victim was a trans sex worker who worked on the street. While she was working, a car approached her and four young men asked her for money. She refused, as a result of which they attacked her with knives and sticks. She was taken to the hospital and had to undergo surgery.

2. A trans-woman sex worker was physically attacked by five people on the street where she was doing sex work. She was severely beaten and taken to the hospital.

3. The victim was a trans-woman sex worker. She was kidnapped while working on the street by the same perpetrators who had attacked her in the past. She was raped and physically attacked.

4. Twenty-five trans sex workers were attacked with knives by men who asked for money. The victims’ houses and cars were also damaged.

5. A group attacked trans sex workers with a gun in Harbiye, a district where sex workers work. The attackers said “Allahu Akbar”, “God is Great”, and shot one of the victims in the head. She was taken to the hospital, but health staff did not care for her properly. She complained about the incident to the police, but they did not take the case seriously and insulted her.

6. The victim was working on a street in Beylikduzu and got into a customer’s car. Another car followed them, but the victim was not aware of the situation. The perpetrators took her to a village. She was insulted, physically assaulted and raped. The perpetrators stole her money and clothing. She asked a shepherd for help. A record was drawn up at the police station, and she gave evidence to the prosecutor at Gaziosmanpasa Courthouse. She was examined by a forensics team.

7. A group of trans sex workers was attacked by eight to ten unknown people. One victim was stabbed in the arm. She got into a taxi, but the driver tried to make her get out of the car.
No reliable information exists about the number of trans prisoners in Turkey or the problems that they face. According to data provided by the Directorate General of Prisons (DGP), there are currently 79 LGBTI inmates in prison—most of whom are probably trans—but the actual number is likely to be much higher. Letters from and interviews with trans inmates describe the violence, physical abuse and humiliation, including rape, solitary confinement and substandard living conditions, to which they are subject.

According to a report by the Civil Society in the Penal System (CISST), a Turkish non-governmental organisation, LGBTI prisoners live isolated in “a prison inside the prison”: they are “placed apart from other prisoners” for their own security. As a result, LGBTI prisoners are denied access to common prison facilities, which was found to be a violation of the Convention in the case of X v. Turkey. The report also found that in order to be placed in a segregated ward, LGBTI persons must submit to a medical examination in order to prove their gender identity or sexual orientation. Turkish authorities have commenced plans for a prison for LGBT inmates (a “pink prison”) that would further isolate and expose LGBT prisoners.

For trans prisoners, access to hormones and other necessary gender-affirming treatment is not facilitated by the state or regularly paid for or reimbursed by the health insurance system. Transgender people may access hormones with the help of the prison doctor, but they do not have the option of choosing the type of hormones best suited to their medical needs. Other needs, such as gendered clothing and grooming, are not made available in prisons. For example, a trans inmate held in Bafra Prison complained in a letter that her basic needs, such as access to clothing, were not properly met. Limited access to a lawyer and restrictions on conjugal visits by unmarried partners are other problems frequently mentioned by trans prisoners.
The ProTrans project

Advocacy
The deliberate process of influencing those who make or have responsibility for implementing policy decisions. As such, the word “advocacy” is quite pliable and is used variously to suit organisational agendas. It is understood in terms of the work an organisation does and the fundamental mission of the organisation.

Bias indicators
Criteria that can assist law-enforcement professionals in determining whether a crime should be classified as a bias/hate crime. These criteria are not all-inclusive, and each case must be examined on its own facts and circumstances.

Bias motivation
A bias or hate crime or hate-motivated incident can be based on one of the following motivations: race/ethnicity, gender identity or other grounds.

Data collection
Data collection implies determining what information is needed and establishing the means to acquire it. Fact finding and monitoring are part of this process. Methods include a wide range of tools such as surveys, interviews, questionnaires, etc.

Documentation
The term “documentation” can have different meanings, depending on the geographical context or the field in which it is employed. It is important to stress that documenting is a process that includes different steps, which can vary depending on the goal of the documentation. Generally, documentation is the process of organising and classifying the collected data such that it is accessible in the short and long term. It implies categorising the collected data according to certain criteria (such as the profile of victims/perpetrators; categories of incidents; bias indicators). This makes the data accessible and creates possibilities for analysis. Analysing data includes elaborating statistical charts and graphs to make findings more visible. Good documentation is the basis for good reporting and dissemination to actors (government authorities, European/international institutions, human-rights institutions, etc.) that can take action. Good documentation can also be used to create effective advocacy tools, such as educational materials, art, and posters that support the changing of attitudes.

Gender
The socially constructed roles, behaviours, and personal characteristics that a given society considers appropriate for men, women and others. People whose gender is neither man nor woman may describe themselves as being in an intermediate state between the two, being both, being neither or belonging to another gender altogether. Some examples of genders aside from man and woman include two-spirit among Native North Americans, muxe in southern Mexico, hijra in South Asia, gendereer in North America and Europe, and many others in societies around the world.

Gender identity
Gender identity is understood to refer to each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms. (Yogyakarta Principles)

Gender expression
An individual’s personal traits, mannerisms and other manifestations of gender identity.

Gender marker
Gender marker is a gendered designator or, for example, an identity document (passports). The most obvious gender markers are designations such as male/female or Mr/Mrs/Ms/Miss. They can also be professional titles or personal pronouns, or coded numbers, such as social security numbers and tax numbers which may use certain combinations for men and for women (for example, even/odd numbers). Gender markers are often embedded in ID cards or personal certificates such as passports, birth certificates, school diplomas, and employers’ reference letters.

Gender-reassignment treatment
The full range of medical services that trans people may require in order to medically transition, including counselling, psychotherapy, hormone treatment, hair removal, initial surgeries such as a mastectomy, hysterectomy or orchidectomy and a range of genital-reconstruction surgeries. Alternative terms used are “gender affirming”, “gender affirmation” or “gender confirmation surgeries.

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Hate crime or bias crime
Hate crime is a criminal act motivated by bias or prejudice towards particular groups of people. This could be based, inter alia, on gender, gender identity, sexual orientation, ethnicity, religion, age or disability. A hate crime comprises two distinct elements:

• It is an act that constitutes an offence under the criminal law, irrespective of the perpetrator’s motivation;
• In committing the crime, the perpetrator acts on the basis of prejudice or bias.

Thus, the perpetrator of a hate crime selects the victim based on the victim’s membership or perceived membership in a particular group. Where the crime involves damage to property, the property is chosen because of its association with a victim group and can include such targets as places of worship, community centres, vehicles or family homes.

Hate speech
Forms of expression that are motivated by, demonstrate or encourage hostility towards a group or a person because of their membership in that group. Since hate speech may encourage or accompany hate crimes, the two concepts are interlinked. States differ considerably as to which forms of expression can be limited or prohibited because of their hateful nature.

Monitoring
A broad term describing the active collection, verification and use of information to address human-rights problems over time. Human-rights monitoring includes observing and gathering information about incidents
and events (elections, trials, demonstrations, etc.), it has a temporal quality, as it generally takes place over an extended period of time. In the specific context of hate crimes, the purpose of monitoring is to document violence motivated by hatred and to draw the attention of national authorities or international organisations to the violation of recognised human rights. Monitoring ultimately aims to collect sufficient evidence of hate crimes to convince authorities and the public that something has to be done to improve the situation. Monitoring is also done to ensure that the authorities are adhering to the law, guidelines or agreements. It can also show trends over time.

Sex
The classification of people as male, female or “indeterminate” sex or intersex. Most individuals are assigned a sex at birth based on a combination of bodily characteristics such as genitals and internal reproductive organs, and less frequently based on their chromosomes.

Transition
The process that a trans person undergoes to live in their gender identity. It may include social gender recognition (e.g. changing one’s appearance), legal gender recognition (e.g. changing one’s name and sex/gender details on documents) and/or medical transition (e.g. hormone or surgeries that result in physical changes to a trans person’s body).

Trans people
Trans people include those people who have a gender identity that is different to the gender they were assigned at birth and those people who wish to portray their gender identity in a different way to the gender they were assigned at birth. It includes those people who feel they have to, or prefer or choose to, whether through language, clothing, accessories, cosmetics or body modification, present themselves differently from the expectations of the gender role assigned to them at birth. This includes, among many others, transsexual people, transvestites, cross dressers, no gender, multigender, genderqueer people, including intersex and gender-variant people who relate to or identify as any of the above. (Taken from the Transrespect versus Transphobia research project)

Trans woman
A trans individual who identifies as a woman.

Trans man
A trans individual who identifies as a man.

Transgender
An adjective referring to a person whose gender identity or expression is different from their assigned sex.

Transsexual
Another term for transgender that is more likely to be used by people who have undergone or want to undergo transition-related medical procedures such as gender-affirming surgeries.

Transphobia
Transphobia is a matrix of cultural and personal beliefs, opinions, attitudes and aggressive behaviours based on prejudice, disgust, fear and/or hatred directed against individuals or groups who do not conform to or who transgress societal gender expectations and norms. Transphobia particularly affects individuals whose lived gender identity or gender expression differs from the gender role assigned to them at birth, and it manifests itself in various ways, e.g., as direct physical violence, transphobic speech and insulting, discriminatory media coverage and social exclusion. It also includes institutionalised forms of discrimination such as criminalisation, pathologisation or stigmatisation of nonconforming gender identities and gender expressions. (Taken from the Transrespect versus Transphobia research project)

Transphobic hate crime
A transphobic hate crime is a crime or incident in which an aggressor is motivated by prejudice, hostility or hatred toward persons who transgress or do not conform to societal gender expectations and norms.

Individuals whose lived gender identity or gender expression differs from the gender role assigned to them at birth are particularly affected by hate crimes. Transphobic hate crimes are motivated by transphobia, which is generally acted out through a high level of physical violence and moralistic contempt for the victim.

Transphobic incidents
The term describes acts motivated by prejudice/bias/hatred against trans people ranging from those that are merely offensive to those that constitute criminal acts. Although hate-motivated incidents do not always involve crimes, such incidents often precede, accompany or provide the context for hate crimes.

Victim/survivor of a homophobic or transphobic hate crime/incident
A victim/survivor of a hate crime/incident is a person who has suffered any incident, which may or may not constitute a criminal offence, that is perceived by the victim or any other person as being motivated by prejudice or hate based upon their sexual orientation, gender identity or gender expression. The perception of the victim or any other person is the defining factor in determining whether an incident constitutes a homophobic or transphobic hate crime.
1. For more information on the project, see http://www.transact-tranaphobia.org/en/255/ev-project/.


4. ODIHR supports government officials in designing and developing monitoring mechanisms and data collection on hate crimes.

5. http://www.osce.org/zh/39921?fbclid=IwAR33yIjP9A6C5bQp7cF3zY1ZrCJolGq2W1s2nE9863Zv8XzKtZvNk50qU5E

6. For more information on the CM, see http://www.humanoids.org.

7. The definition of structural, institutional and societal violence has been adapted from WHO’s Guidelines on Traumatic Stress in Natural Disasters and Humanitarian and Conflict-affected Settings.

8. For more information, see http://www.evax.dz/en/evax-convention/previo


10. For updates, see http://www.evax.dz/en/evax-convention/previo

11. See Article 4 para. 3. “The implementation of the provisions of this Convention by the Parties, in particular measures to protect the rights of victims, shall be ensured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.”


15. Appendix TGEU

16. Hungary


7. The definition of structural, institutional and societal violence has been adapted from WHO’s Guidelines on Traumatic Stress in Natural Disasters and Humanitarian and Conflict-affected Settings.

8. For more information, see http://www.evax.dz/en/evax-convention/previo

9. For example, see the Commissioner’s issue paper Human Rights and Gender Identity (2009).

10. See Article 4 para. 3. “The implementation of the provisions of this Convention by the Parties, in particular measures to protect the rights of victims, shall be ensured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.”

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15. Information on the Commissioner’s mandate and travel schedule can be found here: http://www.evax.dz/en/viewDoc.php?id=1200005


17. For more information, see the Commissioner’s issue paper Human Rights and Gender Identity (2009).


19. For example, see the Commissioner’s issue paper Human Rights and Gender Identity (2009).


34. Party of Socialists’ political commercial is available: http://www.youtube.com/watch?v=nCZ59xjVpM8


41. MOLDOVA


15. A detailed account of this incident by ILGA-Europe can be found at http://www.registre-europe-icrse-swan-tgeu.org/europe-icrse-swan-tgeu-ilga_europe_s_statement_on_the_recent_incident_of_police_violence_against_trans_acts_en_ankara (last accessed on 15 April 2015).


19. See the currently pending case, GG v Turkey (Application no. 10684/2013), concerning the Turkish authorities’ failure to provide gender reassignment treatment deemed medically necessary and urgent to a prisoner for a period of several years.

20. Letter from M.Y., held in Bafra Prison, dated 26 February 2014, on file with KAOS GL.


22. Letter from M.Y., dated 26 February 2014, on file with KAOS GL.


24. Petra De Sutter (petradesutter.be) | Page 2

25. Neeltje Knaap | Page 46

26. Nata Andrejević | Page 69


28. Petra De Sutter (petradesutter.be) | Page 2

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Appendix

Turkey


7. ibid.


13. Zsuzsi Dörgő | Page 35

14. Transvanilla Transgender Association | Pages 32, 36, 39, 40 and 42

15. A detailed account of this incident by ILGA-Europe can be found at http://ilga.europe-icrse-swan-tgeu.org/europe-icrse-swan-tgeu-ilga_europe_s_statement_on_the_recent_incident_of_police_violence_against_trans_acts_en_ankara (last accessed on 15 April 2015).


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24. Petra De Sutter (petradesutter.be) | Page 2

25. Neeltje Knaap | Page 46


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