

Experiences of Trans People in the Balkan EU Accession countries

A joint submission by Trans Network Balkan and Transgender Europe (November 2017)

Overview^{1,2}

Trans people belong to one of the most oppressed and marginalised parts of Balkan societies, facing socially sanctioned violence, and widespread discrimination in all areas of life. Their rights are at large disregarded. Where legal protections exist, they remain illusory and theoretical in practice. Recent years have seen a worrying increase in hate speech and populist scapegoating party rhetorics targeting trans activists across the region. An adequate response from public authorities or law enforcement is missing.

Specific regulations that would ensure trans people a life in dignity are either fully absent or archaic. European standards of 'providing quick, accessible, transparent procedures based on self-determination', and 'ensuring gender reassignment procedures that are available, accessible and covered through public health insurance schemes'³ are not upheld:

- 1) Legal gender recognition regulations are not available in Albania, Bosnia and Herzegovina, Kosovo and Macedonia; procedures in Montenegro and Serbia require sterility and heavy medical interventions.
- 2) Trans-specific healthcare (TSHC) is unavailable in most countries of the region with the exception of Belgrade, Serbia (regional monopoly) and partly Montenegro.

Recommendations

Authorities in Albania, Bosnia and Herzegovina, Kosovo, Macedonia, and Serbia should focus on:

Improving legislative protection:

- Introduction of quick, transparent, accessible legal gender recognition based on self-determination
- Inclusion of gender reassignment in healthcare coverage
- Training for police forces, prosecutors and judges on gender identity and gender diversity
- Targeted measures by law enforcement to curb anti-trans violence and encourage victims of transphobic violence to report by introducing liaison police officers

Changing Attitude:

- Promoting a positive understanding of gender diversity in education and by public figures
- Condemning transphobic hate speech and violence by public figures and the media
- Prosecution of threats and violence against trans rights activists as a threat to democracy and the functioning of civil society
- Consulting and actively involving trans civil society on how to improve the lives of trans people.

¹ Cornelissen, Marije. 2016. *Within Reach: Making LGBTI rights a reality in South East Europe by 2020*. ILGA-Europe; Sarajevo Open Centre

² ILGA-Europe. 2017. *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe*.

³ Parliamentary Assembly of the Council of Europe. 2015. Resolution 2048(2015) *Discrimination against transgender people in Europe*. Para 6.2.1 and 6.3.1

Country Details

Albania⁴

Overview:

Due to deeply rooted, traditional attitudes about sex, gender and gender roles in Albania, trans people are often forced to live in secrecy and isolation, or face extreme violence (often coming from their own families, who are pressured by the society to preserve the “honour” of the family). As a result, trans people in Albania are among the most oppressed, marginalized parts of the society. The LGBTIQ community in Albania is often the target of hate speech from political and religious figures who advocate for the removal of anti-discrimination measures that recognize LGBTIQ people.⁵

Freedom of Assembly/ Freedom of Association

This year, the annual Pride March in Tirana was held without incidents. There are no trans-specific civil society organisations in Albania.

Violence

Fear from police violence prevents many trans people in Albania from reporting crimes⁶, and crimes do get reported are usually not recorded by police as hate crimes but e.g. theft or altercation. This results in serious underreporting of transphobic hate crimes committed against trans people. Further, many young trans people experience transphobic peer violence in educational settings.⁷

Legal Gender Recognition

Albania does not have a law regulating legal gender recognition, nor are we aware of any unofficial practices allowing for legal gender recognition.

Discrimination, Health, Housing

Trans people in Albania face discrimination and violence in spheres of life, and receive no or little legal and social protection (e.g. police violence when reporting assault, denial of general healthcare, peer violence in school, domestic violence, etc.). Persons facing multiple forms of oppression are at the highest risk of violence and discrimination, especially children, youth, Roma, and sex workers. While there is a state-recognized (but NGO-run) residential shelter for young, homeless LGBTI people, it receives no public funding.

⁴ Pink Embassy. 2017. Manifesto for LGBTI Rights in Albania.

⁵ Pink Embassy. 2016. Extremism and religious intolerance have no place in the Albanian Parliament!
<http://www.pinkembassy.al>

⁶ Community feedback to Trans Network Balkan, 2017, 2016.

⁷ Pink Embassy. 2016. Pink ambassador study: lgbt victims of understanding violence / blossom.
<http://www.pinkembassy.al>

Trans-specific healthcare is not available in Albania, and trans people frequently face discrimination and violence even when accessing basic healthcare.

Bosnia and Herzegovina^{8,9}

Overview:

With the rising visibility of the trans community in Bosnia and Herzegovina in the past 2-3 years came an increase in transphobic hate speech by public figures, as well as transphobic hate crimes. However, due to a greater public awareness of trans issues, combined with pressure from LGBTIQ activists and EU and other international institutions, trans issues such as LGR and access to healthcare are no longer automatically dismissed as irrelevant by policy makers.

Freedom of Assembly/ Freedom of Association

While there are no laws explicitly prohibiting or limiting freedom of assembly/association for LGBTIQ people in Bosnia and Herzegovina, in practice LGBTIQ activists are still prevented from assembling, e.g. due to administrative silence when seeking a mandatory permission (needed for all larger gatherings) from the police, Ministry of Traffic, etc.¹⁰ However, during less public events, police have been more responsive and cooperative in the past two years, e.g. providing protection for a queer film festival, mostly due to training they received from LGBTIQ activists in Bosnia and Herzegovina.

Violence

Violence against trans people is on a rise in Bosnia and Herzegovina, in part due to higher visibility of the trans community. However, due to fear of being mistreated by the police, many trans people do not report violence. Further, reports are often discarded by police, crimes that do get recorded are rarely treated as hate crimes, or are labelled as homophobic crimes (due to a lack of awareness of the diversity of the LGBTIQ community).

Legal Gender Recognition

The legal framework in Bosnia and Herzegovina does not include regulations for LGR, and existing procedures exist on the cantonal level. These procedures are not transparent, require that a person has undergone “full medical transition,” and seem to be in place for persons who have already undergone irreversible medical treatment abroad. Legal procedures for change of name do not have any restrictions in terms of gender in the laws of Bosnia and Herzegovina.

⁸ Džumhur, Jasminka, Nives Jukić, and Ljubinko Mitrović. 2016. Specijalni Izvještaj O Pravima LGBT Osoba u Bosni i Hercegovini. The Institution of Human Rights Ombudsman of Bosnia and Herzegovina.

⁹ Bošnjak, Emina, Vladana Vasić, Inela Hadžić, and Darko Pandurević. 2017. 2017 Pink Report Annual Report on the State of Human Rights of LGBTI People in Bosnia and Herzegovina. Sarajevo Open Centre.

¹⁰ Sarajevo Open Center. 2017. The Ombudsperson Institution of BiH confirmed - the right to freedom of assembly of LGBTI persons was violated. www.soc.ba

However, despite the non-restrictive legal framework, trans people are denied this right, facing discrimination by the state when filing for name change^{11,12}.

Discrimination, Health, Housing

In Bosnia and Herzegovina, people who are out as transgender or are perceived as not conforming to social sex and gender norms, face violence and discrimination in all spheres of public life, and receive little or no legal, police, or social help. This forces many trans people to stay in the closet in order to survive, while others flee the country or live in poverty and isolation.¹³ Trans-specific healthcare is not available in Bosnia and Herzegovina. Activists are concerned that trans people in Bosnia and Herzegovina might be subject to experimental gender confirming surgery (mastectomy, hysterectomy, phalloplasty in just 4-hours); however relevant media reports could not be verified.¹⁴

Kosovo^{15,16}

Overview:

Trans people in Kosovo face high levels of violence and discrimination based on social and religious attitudes towards sex, gender and gender roles, which is evident in the sensationalist reporting on LGBTI topics in the media¹⁷. In spite of this, there has been more visibility of the trans community in Kosovo this year, with trans people speaking out in the media, and the trans community participating in the Prishtina Pride March.

Lack of knowledge and understanding in Kosovo regarding trans people and their experiences is driving a culture of violent transphobia; these attitudes provide “justification” to families who reject their transgender members, which has a particularly devastating effect on children and youth (e.g. homelessness, (attempted) suicide, chronic illness, mental health problems, etc).

Freedom of Assembly/ Freedom of Association

There is very little community organising among trans people in Kosovo, due to fear of violence (including police violence). This year, however, the first Pride March was held in Prishtina, without incidents. Despite the fact that the Kosovo President joined the march, the overall political climate in Kosovo is transphobic, and political support for the LGBTIQ community is often superficial and comes at times of highly visible/public events.

¹¹ Džumhur, Jasminka, Nives Jukić, and Ljubinko Mitrović. 2017. Recommendation number P-277/17: “Preporuka u svezi žalbe F.A.”. The Institution of Human Rights Ombudsman of Bosnia and Herzegovina.

¹² Sarajevo Open Center. 2017. The MUP of the Tuzla Canton refused to change the name of a transgender person. www.soc.ba

¹³ Community feedback to Trans Network Balkan, 2014-2017.

¹⁴ Pogled.ba. 18.04.2014. *Obavljena prva službena operacija za promjenu spola u BiH*, <http://www.pogled.ba/clanak/obavljena-prva-službena-operacija-za-promjenu-spola-u-bih/48775>

¹⁵ CEL and CSGD. 2016. *Social Protection and Access to Healthcare for Transgender People in Kosovo*. Equal Rights for All Coalition – ERAC

¹⁶ Žujo, Ryan D. 2017. Trans Network Balkan statement on trans community status in Kosovo.

¹⁷ Organization for Social Emancipation - QESH. 2017. *Portretizimi i komunitetit LGBT në mediat online*.

Violence

Violence and discrimination against trans people in Kosovo is both underreported and misreported. Due to a lack of awareness of trans people's identities and experiences, transphobic violence is often reported as homophobic violence, or not reported as hate-motivated violence at all. Further, incidents of abuse at the hands of the police make trans people reluctant to file a report when they are victims of transphobic crime.¹⁸

Legal Gender Recognition

The Law on Civil Status recognises that it is possible to amend information recorded on a birth certificate (including information about sex), but does not elaborate on any requirements or procedures, in effect making LGR impossible. Thus, specific legislation is necessary to provide for legal gender recognition which would regulate the change of data in public registers, personal identification documents, as well as with regards to social security, pensions or taxation.

Discrimination, Health, Housing

Anti-discrimination regulations in Kosovo prohibit discrimination on the bases of sex, gender, gender identity, and sexual orientation. However, these laws are not implemented in practice. There is no trans-specific healthcare in Kosovo, and people who are out as trans or are perceived as not conforming to social gender norms face high levels of discrimination in the healthcare system (including general health). Trans-specific healthcare is not available in Kosovo, and trans people regularly experience gender identity and gender expression-based discrimination and violence in the healthcare system.

Macedonia¹⁹

Overview:

The trans community in Macedonia remains deeply marginalized and their rights and needs underrepresented in the legal, political, and social spheres. Due to prevailing homophobic and transphobic attitudes in the Macedonian society, political parties do not openly support the LGBTIQ community.

Freedom of Assembly/ Freedom of Association

While there are no laws banning LGBTIQ organising, public LGBTIQ events, as well as organisations and activists, are often targets of physical and verbal attacks and threats. These attacks are fueled by political and religious figures encouraging violence and discrimination against LGBTIQ people.

¹⁸ Community feedback to Trans Network Balkan, 2017, 2016.

¹⁹ Mihajlov, Antonio, Angelina Ivanova, and Daniel Mitkovski. 2017. 2016 Annual Narrative and Financial Report of Subversive Front. Association for a critical approach to gender and sexuality „SUBVERSIVE FRONT“

Violence

In Macedonia, LGBTIQ activists and other persons who are LGBTIQ (or are perceived as such) frequently receive death threats, and physical and verbal attacks against them are common.

Legal Gender Recognition

Legal gender recognition is not explicitly regulated under Macedonian law, leaving transgender people in uncertainty regarding their legal status and without protection from discrimination and abuse. In practice, transgender people face obstacles in the process of name change, and strong opposition when requesting the change of the gender marker in the registers. In October 2017, the Administrative Court of Macedonia ordered the administrative authorities to recognise the gender identity of two trans women and rectify their legal documents.²⁰ Currently, *X against the former Yugoslav Republic of Macedonia* (Application no. [29683/16](https://hudoc.echr.coe.int/eng/?i=001-172645)) is pending before the European Court of Human Rights, challenging the lack of LGR in Macedonia: <http://hudoc.echr.coe.int/eng/?i=001-172645>.

Discrimination, Health, Housing

Trans people are not protected from discrimination in Macedonia by law or in practice²¹. It is crucial to introduce gender identity, gender expression, sex characteristics, and sexual orientation as protected grounds in antidiscrimination legislation in Macedonia, as anti-LGBTIQ attitudes and violence are socially sanctioned and frequent. Further, there is limited access to trans-specific healthcare, including counselling, diagnosing and hormonal treatment, and the care provided is often unprofessional and provided by unqualified healthcare providers.

Montenegro

Overview²²

In a deeply patriarchal, religious society such as that in Montenegro, trans people are marginalized and exposed to constant harassment and discrimination. Additionally, lack of education among policy makers regarding trans issues, as well as a lack of political will, makes progress in the area of human and legal rights of trans people in Montenegro very slow and “patchy”.

Freedom of Assembly/ Freedom of Association

Montenegrin LGBTIQ activists are working with the police, to raise awareness of LGBTIQ topics among police forces, prevent discrimination against LGBTIQ persons committed by police, and

²⁰ Coalition “Sexual Health and Rights of Marginalised Groups” 05.10.2017. *A Transgender Woman Wins a Case in the Macedonian Administrative Court* <http://coalition.org.mk/transrodova-zhena-dobi-sluchaj-pred-upravniot-sud-na-republika-makedonija/?lang=en>

²¹ Bogdanovska, Aleksandra. 2016. *Analysis of the anti-discrimination legislation in the Republic of Macedonia in relation to sexual orientation and gender identity*. Association for a critical approach to gender and sexuality „SUBVERSIVE FRONT“.

²² Juventas. 2015. *Attitudes Towards LGBT Population*. Ipsos.

ensure protection for public events for the community. These efforts have resulted in better security around public/highly visible events, as well as contact points in the police who are trained to work with the LGBTIQ community.

Violence

With more visibility of the trans community in Montenegro, transphobic violence is on the rise. In particular, trans activists and members of their families who express support for them are targets of violent attacks. Trans youth are often targets of peer violence in schools, and receive little or no support from teachers or other school staff.²³

Legal Gender Recognition

Legal gender recognition in Montenegro is only possible for persons who have undergone genital and sterilising surgery. Trans activists in Montenegro are fighting for a de-medicalised LGR process, and are currently working on a draft law which would require an opinion of a psychologist but no medical procedures.

Discrimination, Health, Housing

While Montenegro has laws against discrimination and hate crimes/hate speech on the basis of gender identity, their implementation is severely lacking. Further, trans people in Montenegro have access to a psychologist and an endocrinologist, and those who need surgical care have to go to Serbia. The Montenegrin health insurance covers procedures done in a specific clinic in Belgrade, thus forcing trans people from Montenegro who cannot afford care in another clinic/hospital to go there.

Serbia

Overview²⁴:

The trans community in Serbia is the most visible and “oldest” community in the region, in terms of organizing and presence in the public sphere. Such visibility makes trans people a topic of political and media debates, which often include transphobic hate speech by politicians trying to win over conservative voters and who fuel social acceptance of violence against and marginalization of trans people.

Freedom of assembly/ freedom of association

Serbia’s interests in joining the EU resulted in greater protection of highly visible LGBTIQ events, such as pride marches, in the recent years.²⁵ However, only such large, visible events receive the protection of the state, while the daily lives of trans people in Serbia as marked by constant

²³ Community feedback to Trans Network Balkan, September 2017, 2014-2016.

²⁴ Da Se Zna. 2017. “Izveštaj o stavovima predsedničkih kandidata o položaju i unapređenju prava LGBTI osoba u Srbiji”. Gayten-LGBT.

²⁵ MJ. 2017. “Niš: uspešno održana nedelja ponosa.” Gayten-LGBT.

physical, sexual, psychological violence that that is ignored by, or in many cases perpetrated by, the state.

Violence²⁶

The trans community in Serbia face the highest reported levels of violence in the region, mostly directed at trans women and other trans feminine persons, as well as trans people who are sex workers, belong to ethnic minorities, etc. Due to difficulties in finding employment, some trans people engage in sex work, also to finance gender-confirming surgery. Sex work in Serbia is a misdemeanour 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.²⁷

Legal Gender Recognition

There is no law regulating legal gender recognition in Serbia. A practice evolved, where it is possible only for people who undergo irreversible surgery leading to sterilization. The process of LGR in Serbia is under the monopoly of a handful of medical professionals (surgeons, endocrinologists, psychologists and psychiatrists) who are aggressively pushing for a binary, heteronormative “one model fits all” approach to trans health, and forcing to people to agree to unwanted medical procedures.

Discrimination, Health, Housing²⁸

Trans people in Serbia, especially trans women and trans feminine persons, face pervasive discrimination when trying to access housing, employment, healthcare, etc. Employers and landlords, for example, can violate a trans person’s legal rights without legal repercussions, as discrimination against trans people is socially sanctioned and seen as a “normal reaction” to people who do not fit social norms of sex and gender.

The gender identity healthcare team in Belgrade holds the monopoly of TSHC-provision in Serbia and the region. It provides psychological/ psychiatric assessments, hormone treatment and surgical interventions. Hormone replacement treatment is only provided after a year of mental health assessment, a forced “real life test”, and is accessible to those conforming to the gender binary. Many trans people accessing trans-specific healthcare in Serbia are coerced to undergo unwanted medical treatments, as well as to participate in medical research²⁹. A maximum of 10 gender confirmation surgeries gets partially funded annually, other key treatment forms (such as hormone treatment or other surgical interventions) are excluded.³⁰

²⁶ Beta. 2017. “Novi napad na transrodnu osobu u Beogradu”. N1 Srbija.

²⁷ Transgender Europe.2015. For the Record – Documenting Violence against trans people, Country chapter Serbia p. 80, pp. 84-85

²⁸ Todorović, Kristina, Milan Filipović, Lazar Mišković, and Milan Antonijević. 2016. Analitički izveštaj o nedostacima i pravnim prazninama u implementaciji postojećih politika anti-diskriminacije, prevencije nasilja, zločina i govora iz mržnje prema LGBT osobama. The Lawyers’ Committee For Human Rights (YUCOM)

²⁹ Community feedback to Trans Network Balkan, 2014-2017.

³⁰ For more details see the Serbia chapter in *Overdiagnosed by Underserved – Trans Healthcare in Georgia, Poland, Serbia, Spain and Sweden* (2017), TGEU, pp. 42 with recommendations on pp. 52-53