

Executive summary

The documents, statements, resolutions and reports from independent institutions used for the purpose of this report include those from: the Constitutional Court, the Commissioner for Protection of Equality and Protector of Citizens; reports from NGO's for human rights include: the Belgrade Centre for Human Rights, the Lawyers' Committee for Human rights – YUCOM, the Helsinki Committee for Human Rights in Serbia, as well as organizations for protection of LGBT people: Labris and Gay Straight Alliance; media reports, published research, as well as some replies to letters sent by Labris which include relevant questions from a control list, seeking comments about the actions undertaken for implementations of certain measures.

Positive changes in regard to the previous period

- In 2013. The Government adopted The Strategy for Prevention and Protection from Discrimination and the Action Plan for implementing this strategy in 2014. These two documents were prepared by civil society organizations working on LGBT rights, as well as prominent experts on human rights.
- It is deemed a great success that after three successive attempts to organize the Pride Parade, a Pride Week took place in September 2014. It ended with the Pride Parade accompanied by strong security measures.
- Research on Government representatives' understanding of hate speech was published in February 2014 by the Commissioner for Protection of Equality, which clearly shows that there are problems within state institutions about hate speech, both when it comes to understanding and knowing existing regulations that prohibit and sanction homophobic hate speech. Activities of independent institutions were intensified in 2015, after the successful Pride Parade held in 2014.
- The Minister of Foreign Affairs, Ivica Dačić, acted on the recommendation of Commissioner for Protection of Equality and in 2015, he publicly apologised for homophobic statements that he gave in 2013.
- During 2014, the Ministry of the Interior appointed an LGBT community liaison officer in the General Police Directorate.
- Campaign of Ministry of Youth and Sports against hate on the internet was organized in 2014.

Problems

In regard to Hate Speech:

Hate speech is one of the major, long-term and continuous problems in the public discourse, which in some cases escalates to incitement, i.e. homophobic speech coming from political and religious leaders, as well as famous persons from the world of entertainment and arts.

Measures to be taken:

Establish public policy about hate speech and some kind of generally accepted public policy document, like a platform, declaration on prevention and prohibition of hate speech and hate crime.

In regard to the Right to Assembly:

The biggest problems identified related to the Right to Assembly are: antiquated and outdated laws from 1992, inefficiency of existent legal remedies, continuing practice of imposition of blanket ban without concrete and individually stated reasons for the ban, banning of public assembly by unauthorized authorities (local communal services, Bureau for Coordination of Security Services, National Security Council), institutional and public misunderstanding of the right of the organizers to use public space as they choose and to choose the places where their assembly is to be held, imposing high administrative obligations and costs for the organizers which requires months of gathering of documentation (but also discriminatory use of this requirements that are imposed selectively), setting prices for organizing public assembly that is to be paid by the organizers, ban on peaceful assembly because of the threats of violence by violent counterdemonstrations, multiple ban on numerous peaceful assemblies held at the same time and the opposed counterdemonstrations, non-existent legal regulation of counterdemonstrations, spontaneous assemblies, non-Serbian citizens assemblies, public belief, supported by some political and religious leaders, that minority views should not be publicly presented at gatherings, and that their organizer "just want to provoke" citizens who don't agree with them, standard "visibility and audibility" of assembly is almost unknown in public, in practice, it is not always possible for message to be seen and heard by those for which it was intended, legal ban on public assembly near the parliament, occasional endangerment of media representatives who report from assemblies, institutional, widespread and basic ignorance of the media and general public about the OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly and other relevant standards and documents that regulate Rights to Free Public Assembly.

If these problems remain unresolved, they will prevent and severely complicate all public gatherings about the LGBT issues, especially Pride Parades. Their annual organization will continue to consist of complicated negotiations with many institutions on different levels, with a lot of uncertainties depending on the ad hoc political situation.

Measures to be taken:

In June 2015 The Constitutional Court declared the current Public Assembly Law unconstitutional. Also, according to consulted sources, problems in this area are numerous, and again according to consulted sources, there is a lot of practices that is not harmonized with OSCE/ODIHR and other international standards, which has all led to a low level of freedom to public assembly. Having all this in mind, it is necessary:

- To adopt, during this year, 2015, a new Law on public assembly under which will comply with OSCE/ODIHR and other international standards. Beside the members of the Government and Ministry of Interior and Ministry of Foreign Affairs, this process should also involve nongovernmental organizations with human rights, experts, as well as representatives of OSCE/ODIHR.
- To adopt Government strategy on Public Assembly in the Republic of Serbia.

In regard to threats to youth safety in schools because of their real or perceived sexual orientation and gender identity

Homophobia, transphobia, violence and discrimination are widely spread among youth, which we can see in the data collected by independent institutions, especially by the Commissioner for Protection of Equality.

Measures to be taken:

Effective and consistent application of existing laws and bylaws in stopping homophobic and transphobic motivated peer violence and bullying in schools.

Changes in education system and educational programs to eliminate homophobic contents, under the terms of numerous repeated recommendations of Commissioner for Protection of Equality.

In regard to national institutions for human rights

From independent and Government institutions for Human Rights in Serbia in this period, activities of Commissioner for Protection of Equality were the most intense and most prominent in regard to the protection and improvement of the position of LGBT rights, which is understandable because of its' antidiscrimination mandate. Other similar institutions deal with it sporadically, rarely and short-term, often avoiding to deal with LGBT problems which are "unpopular" in public opinion.

There is a need for more intense activities of national institutions for Human Rights and the use of their own legal authority to consistently respect Recommendation CM/2010 and other international standards for protection and improvement of the position of LGBT people.

Peer violence as a threat to safety: Case from the project "Okurazi se"

Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity

Recommendations to the member states'ember states:

1. Member states should ensure effective, prompt and impartial investigations into alleged cases of crimes and other incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator; they should further ensure that particular attention is paid to the investigation of such crimes and incidents when they were allegedly committed by law enforcement officials or by other persons acting in an official capacity, as well as that those responsible for such acts are effectively brought to justice and, where appropriate, punished in order to avoid impunity. Member states should provide suitable measures to make sure that the victims and witnesses of de suitable measures ively brought to justice and, where appropriate, orientation or gender identity are encouraged to report these crimes and incidents; for this purpose, members states should take every necessary step to make sure that institutions responsible for law enforcement structures, including the judiciary, have the necessary knowledge and skills to identify such crimes and incidents and provide adequate assistance and support to victims and witnesses.

Public Policy

The strategy for prevention and protection from discrimination adopted by the Government of Republic of Serbia in 2013 amongst its general objectives proposes institutional protection of LGBT persons from public and private violence especially in areas of employment, health care and social services, private and family life, education, sport etc. Prevention and punishing of hate speech and physical assault on LGBT people; Improvement of status and position of LGBT people.²

What is most worrying when we talk about safety of LGBT people is gender based violence in schools. According to preliminary results of the research on gender based violence in schools³ in Serbia, 69% of primary school students and 74% of high school students replied that they have at least once experienced some kind of gender based violence from the beginning of 2013/2014 school year. Results of the research show that 60% boys and 27% girls support violence against LGBT people.

Citizens initiatives: project "Okurazi se"

Web site Okurazi se⁴ is a part of the campaign "United against discrimination" which was jointly organized in 2013 by six nongovernmental organizations for LGBT rights. Besides the organizations from Belgrade: Labris, Queeria Center, SPY and Gayten, there were also organizations from rural Serbia that were involved: Association Duga from Sabac and "Izadji" from Novi Sad. The campaign was initiated so that the LGBT community would receive quality information about the legal framework that benefits LGBT persons. Through the illustrations in comic book form by a young artist named Helena Janečić, some of the cases of violence of LGBT rights were presented, together with detailed information about which rights are guaranteed by the laws of Serbia, which are violated and to which institutions to turn to report and try to have it solved.

According to Boban Stojanović from the Queeria Center, cooperation of six nongovernmental organizations is particularly important because sometimes it is very hard to empower LGBT community that lives outside the big cities and to communicate important information to them. "If there is no national campaign, it's even harder. That is why we decided to focus our capacities towards promotion of existing laws and to share information about what can be done, and a lot can be done. Some of the possibilities are mentioned on the web site, some are still to be presented, and we would be very happy if the visitors to our web site would send us some of their solved cases," Stojanovic was quoted as saying..

He mentioned that the goal of this project is not only to collect cases: "[In the advice] offered on the web site, we insist that during the hearing, or any other kind of contact with the police, police officers should behave correctly, without insulting, without blaming the victim of the violence regardless of their personal views on [the] LGBT population." [The] LGBT community is not adequately informed about their rights, nor the legal framework that protects them:

² Strategy for prevention and protection from discrimination, 2013. 4.4.3. General objective.

³ Integrated Response to Violence against Women in Serbia and School without Violence – Preliminary research results on gender based violence. Available on web site of GSA. http://gsa.org.rs/wp-content/uploads/2014/06/050614_Istrazivanje_o_rodno-zasnovanom_nasilju_u_skolama.pdf

⁴ Vreme, 2013, LGBT rights: Short and clear, br.1159. 21. March.

<http://www.vreme.com/cms/view.php?id=1104989&print=yes>

Web site <http://www.okurazi.se> does not work.

"Responsibility for this lies on the society as a whole, institutions, politicians, nongovernmental organizations. We, as organizations, have recognised our share of the responsibility and with this project we want to change things." During the campaign "United against discrimination" there were numerous workshops, seminars, public debates and actions.

When it comes to the Serbian legislature, it also received positive comments from the European Commission recently. Stojanovic concurred with this saying that greatest problems when it comes to respecting LGBT rights, within this legal frame are: an inert system, respectively lack of law implementation, as well as slow judiciary procedures. "When we talk about minority rights, then there is also a lack of human rights culture within the institutions," he said. Speaking about the web site Okurazi se, Stojanovic says that within the first month of its existence, it had numerous visitors. Besides the written information on the site, all the information is given in video form so that the visitors don't have to waste time reading everything, but instead they can watch and listen to videos on a YouTube channel or read it in a printed publication. Results of the research conducted in July in which several hundred people participated, shows that citizens of Serbia don't have radically negative views about the LGBT community. Even 70% said that they would support affirmative action related to LGBT rights, if the State and its institutions were behind it. The fact that many of the participants in the study could not name some of the laws that protect the rights of LGBT people, serves to prove the lack of institutional campaigning towards the LGBT community. Around 90% of the participants thinks that the rights of LGBT people in Serbia are being violated. Physical violence is still the most visible form of LGBT rights violations while discrimination (bullying, exclusion, discrimination in the work place, etc.) was harder to recognise.

During the work on typical cases on the project "Okurazi se", contact was made with a sister of one gay young man, a victim of peer violence. The school in which the violence took place was completely passive about it. After everything that her brother went through, neither him, nor his parents wanted the publicity, they didn't want to take any legal action and he left this school and now is enrolled in a similar one in another town. Because of that, his story and identity had to remain confidential and for purposes of this project, he is called Nikola.

Nikola's story. In elementary school, Nikola's somewhat feminine behaviour did draw attention, but it wasn't a problem because everybody knew him well, both the teachers and the students, and everybody mostly accepted him for who he was. There was some teasing, they openly called him Nikolina or Lina for short, but Nikola didn't mind. After finishing elementary school, he enrolled in high school, a technical trade school, and problems started right away. Students from his class did not mistreat him, but soon it was known throughout school that the first grader was "a fagot", so groups of older students wanted to "re-educate" him, which on several occasions ended bad for Nikola. In the beginning they "just" yelled threats and swears at him, then he was slapped several times, beaten, his clothes were torn and soiled, and so on. Each individual attack was reported to Nikola's homeroom teacher, but nothing changed. His homeroom teacher told him to "keep a low profile" and that it will all "pass" on its' own. He told Nikola's parents that the alleged incidents were happening outside of the school so there was no way the school could be responsible. When parents asked if there was some sort of a team for protection against violence, he said that there was no legal obligation for it, and that a very small number of schools have it and that he personally doesn't know of any technical school that has it. "Let's be real, we don't have the time nor sensibility for this sort of psychodrama, this is a technical high school and not a ballet school," he said.

Because of that, Nikola's parents started to drive and pick him up from school whenever their working hours allowed it because the attacks usually happened outside of the school yard, in the streets near the school. On the school grounds Nikola never left his class during the breaks because he didn't want to meet older student in the halls or the stairs, where they would attack him. Upon noticing that Nikola was successfully avoiding them, a group of attackers decided to take on initiative. During one of the big breaks they entered his classroom chanting "Kill, kill, kill the fagot", they threw several other students out with threats "your time will come, friends of the fagot", beat him up, dragged him, all covered in blood, through the halls as an example to other "fagots" and threw him from the first floor in to the schoolyard. Nikola got a concussion, fractured ribs, dislocation of the shoulder, some bruises and scrapes, and after he was treated at the ER, he stayed there for a month to recuperate. After all that, the school director advised Nikola's parents that, because of the school reputation, his own safety and the safety of other students, the best thing would be to change school, or maybe it would be for the best, to home school him so that he can pass this grade, since he doesn't "fit in" with the other students.

What was not done and could and should have been done by legal standards? Project "Okurazi se" gave instructions on what to do in such situations: "What should I do?" First, it is necessary to know that schools are obligated to respect the Special Protocol for Protection of Children and Students from violence, abuse and neglect in educational institutions and rules on the treatment protocol at the institution in response to violence, abuse and neglect⁵, which regulates taking series of actions in cases of peer violence, such as Nikola's. It was necessary that the school, even before Nikola's case, and certainly after his first reports of threats and abuse, forms a Team for protection of students from violence, abuse and neglect, to inform all employees, students and parents about their rights, obligations and responsibilities, prescribed by the law and Rules on the treatment protocol. So, there is responsibility of the school for not taking adequate measures, or in this case no measures of protection from violence at all, instead of reporting it to the educational inspection that is obligated by law to react in all the cases of abuse and violence against students.

The project identified regulations that ban that kind of violence and prescribe obligatory actions by schools.

The penal law⁶ incriminates both the first threats and the attacks on Nikola as criminal acts of endangering safety, article 138. This states that if any person shall endanger another person's security by threats of attack on life or body of that person or somebody close to him, the person so offending shall be sentenced to prison for up to 3 years.

Infliction of great bodily harm is included in the criminal act of Serious bodily harm, article 121: If any person shall inflict serious bodily harm or seriously damages the health, the person so offending shall be sentenced to prison from 6 months up to 5 years. But since the act was done to a minor the perpetrator will be sentenced to prison from 1 to 8 years and, if the victim's life was in danger, from 2 to 12 years.

⁵ Rules on the treatment protocol at the institution in response to violence, abuse and neglect ("Sl. glasnik RS", br. 30/2010)

http://www.paragraf.rs/propisi/pravilnik_o_protokolu_postupanja_u_ustanovi.html

⁶ Penal law ("Sl. glasnik RS", br. 85/2005, 88/2005 - ispr., 107/2005 - ispr., 72/2009, 111/2009, 121/2012, 104/2013 i 108/2014)

http://www.paragraf.rs/propisi/krivichni_zakonik.html

For the perpetrators that attacked Nikola, for whose actions could not be proven that caused serious bodily harm, there is responsibility for the criminal act of Participation in a Fight, article 123. If any person shall participate in a fight where someone is seriously hurt, the person so offending shall be fined or sentenced up to 3 years in prison.

If the school director and homeroom teacher did nothing to protect the student, Nikola, from violence because of his perceived sexual orientation, they are responsible for a crime of Violation of Equality, article 128. If any person shall withhold or limit human rights and citizens' rights prescribed by the Constitution, on the basis of a personal characteristic, the person so offending shall be punished by the law with the sentence from 3 months up to 5 years in prison.

In cases of violence or suspicion of violence amongst students, the school is obligated to respect the Special Protocol for Protection of Children and Students from violence, abuse and neglect in educational institutions, which prescribes internal actions for detection, disrupting and stopping violence. Every adult person that has any information on cases of violence (teacher on duty, head teacher, tutor, and every employee in the establishment) is obligated to stop the violence or call for help (if he/she estimates that he/she can not stop the violence on his/her own). Calming the situation down means providing safety for the child/student, breaking it up, talking to those involved instead of silencing, covering it up and lightly take that the violence will go away on its own. Consultations should be held immediately up on finding out about the violence and should be done within the institution, together with the Team for protection of students from violence. The consultations can also be held with other services, outside the establishment, if the complexity of the situations calls for this.

Immediately after finding out about violence against Nikola, his homeroom teacher was obligated to report it to the director without delay, who was on his part obligated to call an emergency meeting of the school team for protection of students from violence and take up immediate and necessary measures to stop the violence.

In the case of a third level violence, the director was obligated to inform the police, social services and school board within the 24 hours, all after talking to Nikola's parents and to the parents of the students who were abusing him, unless the Team for protection of students from violence estimates that this will endanger Nikola's, or any other student's that was exposed to violence or treat of violence and abuse, putting the students' best interests further. After that, the Team adopts a Plan for students' protection from violence, which contains: activities directed at changing the behaviour (e.g. enhanced educational work, work with parents, work with classmates), including the student parliament and PTA, as well as the school board, if necessary, actors of these actions, deadlines, means to provide re-inclusion of all perpetrators of violence, abuse and neglect back in to the community. In the process of preparing the protection plan, the institution includes class mates, members of student parliament, as well as perpetrators of violence and abuse, whenever it is possible. If the school is unable to handle the situation independently and stop further abuse, the Team should do the consultation (case conference) with representatives of social services, police, school board and health services, while parents and students could be present on the conference, depending on the case in hand. The school has an obligation to continue cooperation with the social services around each of the students, both the victims and the students' perpetrators.

Filling the report to the authorities is the responsibility of the director of the institution: in cases when the student needs physical protection, or if there is a suspicion that the criminal act or offense was perpetrated, to the police, social services within 3 days of the act of violence. Important to note: within the educational system there is no space for investigation or proving of violence or neglect. Those tasks are under the jurisdiction of other systems.

Project also offers tactical instruction, "Whom should I ask for help?"

After first threats and attacks it was necessary to report the case to the police because of the criminal act of Endangering Security, article 138: If any person shall endanger another person by threats of attack on life or body of that person or somebody close to him, the person so offending shall be sentenced to prison for up to 3 years.

After the last drastic case of violence, it is necessary that Nikola, as the victim or his parents in his name report (if the school had not done that already) the case to the police and maybe even directly to the office of the prosecutor, because those were the criminal acts of serious bodily harm to a minor, with possible qualification of a more serious offenses, if the victim's life was in danger, which are all acts that are mandatory prosecuted by the official duty.

After the first talk with the homeroom teacher, who did not take the necessary and obligatory measures to stop the violence in school, and because there was no Team for protection of students from violence, it should have been reported to the local education inspection.

The report to the Education inspection because Nikola's school did nothing to protect him from violence, is to be filled in written form. Whether mailed or delivered personally, the inspection is obligated to react. Reports can also be received by phone or email, but it is left to the inspectors that will arbitrarily decide when to act, unless it's a matter of violence or abuse, in which case the inspection will check out all information about it. The law does not prescribe special form for the report except that it must be clearly stated which school is at question and what the problem is. It is necessary to describe what happened, as concise and precise as possible, to state all the relevant information, including the contact information so the complainant could be contacted.

The inspection has a deadline of 2 months, from the day of receiving the report, to investigate and to produce adequate conclusions and decision. Within 15 days after finishing the surveillance procedure, the inspector makes a record which includes a "case study" and the measures that the educational institution is obliged to take within the deadline that the inspector has indicated, in order to remove all irregularities, to punish the person responsible, or both. After the deadline passes, the inspector visits again for the so called control supervision. If it is established that the school did not do what it was supposed to, he/she then issues a statement in which he/she orders the institution to do so.

If there are some complaints about the actions of local or city inspectors, which is possible because such cases are known to happen in practice, a complaint can be filled to the republic education inspection. If there is a problem with the republic education inspection, then the report should be submitted to the Minister of Education. The report should be in written form, stating what happened and where, as well as the inspectors name (if it is known) whether he/she works in local or republic inspection, contact information of the complainant (first name, last name, address, and/or telephone number). The republic inspector or Minister should reply in 15 days, but only if it is noted that reply is expected or demanded.

Hate speech

"Hate speech" by recommendation of CM/Rec(2010)5 the Committee of Ministers to member states on measures to combat discrimination on the grounds of sexual orientation or gender identity⁷

Member states should take appropriate measures to combat all forms of expression, including in the media and on the Internet, which may be reasonably understood as likely to produce the effect of inciting, spreading or promoting hatred or other forms of discrimination against lesbian, gay, bisexual and transgender persons. Such "hate speech" should be prohibited and publicly disavowed whenever it occurs. All measures should respect the fundamental right to freedom of expression in accordance with Article 10 of the Convention and the case law of the Court. 7. Member states should raise awareness among public authorities and public institutions at all levels of their responsibility to refrain from statements, in particular to the media, which may reasonably be understood as legitimising such hatred or discrimination. 8. Public officials and other state representatives should be encouraged to promote tolerance and respect for the human rights of lesbian, gay, bisexual and transgender persons whenever they engage in a dialogue with the key representatives of the civil society, including media and sports organisations, political organisations and religious communities.

Every claim that there is a danger from ,homosexualization of the society must be considered equal to racist or anti-Semitic statement about alleged Jewish or Muslim conspiracy to dominate the world and as such should be adequately sanctioned, because the homophobic and/or transphobic statements are absurd in the same way and equally paranoid and dangerous. Freedom of speech and media freedoms are not excuses for homophobic and/or transphobic speech which represents misuse of these liberties, so homophobia can not be justified by freedom of speech.⁸

Homophobia generates fear and manipulation, spread untruths and hatred toward same sex oriented people. Homophobia attributes certain characteristic to homosexuality and homosexual persons which do not really exist and are based on prejudice. Most typical homophobic views continually present in Serbia, in the monitored period of 2013, 2014 and 2015, for example are: that homosexuality produces a "white plague", that it is "contagious", that public displays of such persons will corrupt the youth, that homosexuals should not raise their own children or work with children in schools because they will "teach them homosexuality", that they impose "their pattern of behaviour on majority population", that their rights are not really threatened and that they are "paid by the foreigners".

The Helsinki Committee for Human Rights in Serbia has pointed out that the LGBT community of Serbia, generally, lives in fear. Attacks on persons because of their perceived sexual orientation are very frequent. Hate speech is rarely sanctioned, and it is often used by officials like ex-Prime Minister Ivica Dacic, Nebojsa Bakarec, members of Democratic Party of Serbia (DSS) and Dragan Markovic, parliament member from JSS, while the discriminatory tone is

⁷ Recommendation of CM/Rec(2010)5 the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity

⁸ European Parliament resolution on the fight against homophobia in Europe, 2012/2657 (RSP) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+P7-RC-2012-0234+0+DOC+XML+V0//EN>

taken by church officials.⁹ According to the European Commission, LGBT activists in Serbia are still subject to threats and hate speech. The Commission pointed out that the officials should systematically publically condemn and react to threats, physical violence and inflammatory to violence, hate speech by extremist groups towards non-governmental organizations, notable defenders of human rights, etc. During 2014, the Ministry of the Interior appointed a LGBT community liaison officer in General Police Directorate.¹⁰ Right-wing extremist organizations and groups have made statements, all year around, denying the rights to the LGBT population, but there was no organized wide spread violence, as in 2010 Pride Parade.

The so-called inflammatory speech coming from political parties and religious leaders is also present, and, it usually happens during periods of social conflicts and crisis. It can be used as justification of violence, so the speakers are responsible, to a higher extent, for contents of this type. Inflammatory speech is an especially dangerous type of hate speech because its authors are persons who have the power to influence public opinion. Danger of inflammatory speech is especially prominent in times of exacerbated social tensions, growing conflicts, when its effects multiply. Because of this, the responsibility of social actors is greater, making their obligation to refrain from this kind of speech more prominent. Hate graffiti frequently contain reduced messages from homophobic politicians placed in the public sphere. On the other hand, very often, populist politicians pander to so-called public taste and to the views of alleged "majority" of the population by using hate slogans, seen in street graffiti, in their public appearances. A typical example is statements by ex-Prime Minister Dacic in 2013.

The "Dacic" case

On the day of September 23rd 2013, in Niš, only 5 days before the Pride Parade was to be held in Belgrade, the Serbian Prime Minister and Minister of the Interior, Ivica Dacic, made several discriminatory public statements toward the LGBT population. In one of the statements, quoted by daily newspaper Blic, Kurir, news portal Telegraf, and the B92 TV station, Ivica Dacic said: "They are equal to the other citizens but don't tell me that it's normal, when it is not. Homosexuals have the same rights, but not to set standards for behaviour. I don't have any hate for them, I just can't accept that it is normal because it is not natural. If they are a minority and an exception to the rule, then they should pay attention not to offend the feelings of the majority. If it exists in EU countries, it doesn't have to mean that we should support this kind of phenomenon."¹¹ We should not go to the other extreme and pander to them. Should I become gay to be pro-European?" said Dacic on TV B92, and this was reported by media, among it, newspaper with the biggest circulation – Blic.¹²

⁹ Helsinki Committee for Human Rights in Serbia, Report 2014 – Human rights in Serbia – Political culture against Europeanization, Belgrade, 2015. p.365. <http://www.helsinki.org.rs/serbian/doc/izvestaj2014.pdf>

¹⁰ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2014 – Law, practice and international standards of human rights, Belgrade, 2015. P.310-312. <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2014/01/Ljudska-prava-u-Srbiji-2014.pdf>

¹¹ Kurir, 2013, Dačić: It is not normal to be gay!, 25. September.
<http://www.kurir-info.rs/dacic-nije-normalno-biti-homoseksualac-clanak-1001325>

¹² Blic, 2013, Dačić: I won't go to Pride Parade, should I become gay?, 23. September.
<http://www.blic.rs/Vesti/Drustvo/407258/Dacic-Necu-ici-na-Paradu-ponosa-treba-li-ja-da-postanem-gej>

On March the 3rd Commissioner for Protection of Equality gave the opinion that those statements were disturbing and demeaning and that they insulted the dignity of same-sex oriented persons. It was recommended to Minister Dacic to meet with the representatives of Labris and find out what are the problems that LGBT population faces in order not to make statements that insult the dignity of LGBT population and support the stereotypes against same sex oriented persons in the future, so to contribute to the decrease in homophobia, violence and discrimination and the increase of tolerance with his statements.

Excepting this recommendation, Ivica Dacic, in his new position as Minister of Foreign Affairs, met with representatives of Labris and the Commissioner for Protection of Equality. The occasion of this meeting was a complaint made by this organization concerning discriminatory statement that Ivica Dacic, Prime Minister at the time, allegedly made in 2013 that it is not normal to be homosexual. "I am sorry that my statement sounded as an insult to LGBT population, it wasn't my intention to insult anyone, and to entice violence. On the contrary, my domain is protection of human rights" – said Dacic after meeting with representatives of Labris – Organization for Lesbian Human Rights. The meeting was held in the presence of the Commissioner for Protection of Equality Nevena Petrusic, who started the process after the complaint made by Labris and other civil society organizations. Representatives from Labris stated that the apology and the meeting were a significant step forward for the society because it showed respect for the culture of dialogue. Everyday problems of the LGBT community were discussed at the meeting and it was agreed there should be better cooperation between Labris and the Ministry of Foreign Affairs, especially concerning the recommendations of the Council of Europe.

Public policy against homophobic hate speech

The Strategy for prevention and protection from discrimination, adopted in 2013 by the Government of the Republic of Serbia is the key and major public policy document against discrimination of discriminated groups, including the LGBT population. The Strategy states that public and private displays of homophobia and hate speech, as well as forms of violence motivated by bigotry towards non-heterosexual orientations are the most frequent forms of discrimination and violation of LGBT rights in Serbia. Spreading, promoting and enticing of hatred and other kind of hostility toward LGBT people in public, in media or Internet, as well as through hate graffiti and other ways are still frequent. In general, the Strategy prescribes change of traditional, negative stereotype about LGBT persons.

Preventing and punishing hate speech and physical attacks on LGBT persons. The measures Strategy prescribes include prevention of spreading, promoting and enticing of hate and other kind of hostility towards LGBT persons, whether they are made in public, in media or Internet, as well as through hate graffiti and other ways; affirmation of a culture of tolerance towards the LGBT population amongst the wide circle of citizens and improving the dialogue between the civil society and the state organs with the goal of improving the position of LGBT persons and achieving equality within standards set by the existing legal framework; to reinforce and affirm LGBT culture and other activities that empower the LGBT community, its positive visibility and social inclusion.¹³

¹³ Strategy for prevention and protection from discrimination, 2013. 4.4.2. Description of the situation. 4.4.2.1. Position of LGBT people.

Institutions and celebrities against hate and intolerance

During 2014, the Ministry of Interior received 7 reports on physical and 12 on verbal attacks against the LGBT population. Ten reports were forwarded to the prosecutors, while 11 persons were processed. Sixty-six threats towards LGBT people on social networks were reported, 25 persons were processed by the police and 45 criminal charges were raised.

Taking into account wide spread intolerance, the Ministry of Youth and Sport continued with the campaign in 2014, against hate speech on the Internet towards different social groups including LGBT persons.¹⁴ Through this campaign, which is a part of activities around the National Youth Strategy, the Ministry actively educated individuals throughout Serbia and the region through direct contact with the youth, with conferences and workshops and taking part in music and sports events.¹⁵ A significant part of peer violence on the Internet is based on hate speech and discriminatory views towards everything that is different (violence based on national, religious, sexual or any kind of belonging that make person "different" in the eyes of majority). That is why ¹⁶ the Council of Europe's Director General of Democracy started a global campaign (initiated by Mr. Thorbjørn Jagland, Secretary General) in order to fight hate speech on the Internet, with the goal to reduce peer violence in cyberspace and to create a safer Internet environment providing young people with an alternative. This campaign will be one of the priorities of youth sector of SE for period 2013-2015, and all member states are called to actively apply it on national levels including all relevant actors.¹⁷

A good tool against hate and intolerance are public appearances by celebrities and the messages they send against it. One example of freedom of speech opposed to hate speech happened in 2014 when Marija Serifovic presented her book "Confession", in which she openly speaks about her different sexual orientation.¹⁸ During the action Hate free zone¹⁹ the Ombudsman of the Autonomous Province of Vojvodina pointed out that LGBT community is one of the most vulnerable social groups that faces marginalisation, discrimination, hate speech, harassment, threats and violence on a daily basis that increases together with the increased visibility. Cases of discrimination, hate speech and violence against LGBT population most of the time have not been processed in an adequate way. In addition to that, the police, prosecutors and courts show excessive inefficiency and slowness working on the cases of violence against LGBT persons.

¹⁴ No to hate speech (No hate speech movement and Ministry of youth and sport), Campaign of Republic of Serbia to fight against hate speech on the Internet. <http://www.nemrznji.rs/>

¹⁵ GSA, Annual report on condition of human rights of LGBT people in Serbia 2014., Belgrade, 2015. P.38
<http://gsa.org.rs/wp-content/uploads/2015/03/GSA-izvestaj-2014.pdf>

¹⁶ No to hate speech (No hate speech movement and Ministry of youth and sport), Campaign of Republic of Serbia to fight against hate speech on the Internet. <http://www.nemrznji.rs/>

¹⁷ Young who are victims or witnesses of hate speech, amongst other on the basis of sexual orientation, can talk to psychologist and pedagogist.

¹⁸ Labris, Annual report on position of LGBTQ population in Serbia for 2014, Belgrade, 2015.
<http://labris.org.rs/wp-content/uploads/2014/07/labris-SRB-WEB.pdf>

¹⁹ Ombudsman of the Autonomous Province of Vojvodina 2014, cases of discrimination, hate speech and violence against LGBT population are not been processed in adequate way, 9th July 2014.
<http://www.ombudsmanapv.org/riv/index.php/vesti/saopstenja/1372-slu%C4%8Dajevi-diskriminacije-govora-mr%C5%BEnje-i-nasilja-prema-lgbt-osobama-se-ne-procesuiraju-na-odgovaraju%C4%87ina%C4%8Din.html?lang=sr-YU>

The regional conference "Tolerance and dialogue against hate speech"²⁰ was held in Belgrade in 2013. Its' goal was to propose a set of recommendations for further activities in fighting negative occurrences like hate speech and discrimination in the real world and the Internet. During the Conference, there was also talk about the legal framework for combating intolerance, preventing violence in sports and preventing hate speech against the LGBT population.

On the 23rd September 2014, the Committee on Human and Minority Rights and Gender Equality, together with the European Integration Committee of Serbian Parliament, called all state authorities to enable a peaceful Pride Parade to be held on Sunday 28th September. Also, they urged for a declaration of a ban on hate speech and hate crime to be adopted it as soon as possible. President of the Committee on Human and Minority Rights and Gender Equality Meho Omerovic said that the LGBT community is the only group that has been openly threatened by violence and that this problem can not be solved by holding Pride Parades once a year. He also pointed out the importance of respecting opinions and recommendations of independent bodies as guidelines towards improving rights of LGBT population.²¹

Lack of affirmative and informative media reports

Affirmative or ordinary, informative contents, as the opposition and counterbalance to hate speech, are still very rare and practically non-existent, in the period from 2013 to 2015, with the exception of internet presentation of groups for LGBT rights. As an example of aregularly updated web site, with newest data that relates to trans persons is Gayten-LGBT's web site <http://www.transserbia.org/>. There you can read news that have no other place in the public discourse, for example about the introduction of marks of neutral gender or changing of the identification documents without having surgery done data that gives basis for making legal changes even in Serbia. For example, on this website we can find out that changing gender mark in the identification documents without having surgery done is made possible since 2015 in Ireland, Canada, Hawaii (US), Israel, Colombia, Malta, Norway, Poland, while in Denmark it is possible to do it without surgery or medical diagnosis since 2014, In the US state of Rhode Island and Taiwan it has been possible since 2014. And since 2013 in Oregon (US) and South Korea. Since 2012 it has been possible in Canadian province of Ontario. Neutral gender marks exists since 2015 in Nepal, and from 2014, a third sex is recognized as a category in Australia and India since 2014, Bangladesh from 2013, and in New Zealand since 2012.

Research on how hate speech is understood by the representatives of public authorities

"Relation of representatives of public authorities towards discrimination in Serbia" is the title of a research done by the Commissioner for Protection of Equality, published in February 2014 with the goal to determine the level of recognizing hate speech and discrimination, and increase the familiarity of the existing legal framework that penalizes these phenomena.²²

²⁰ Regional conference "Tolerance and dialogue against hate speech", 2013. <http://www.nemrznji.rs/regionalnu-konferenciju-tolerancijom-i-dijalogom-protiv-govora-mrznje/>

²¹ Protector of Citizens, Opinions and recommendations of the independent bodies - the guidelines for the improvement of the LGBT community http://www.ombudsman.rodnaravnopravnost.rs/index.php?option=com_content&view=article&id=112%3A2014-09-23-07-28-54&catid=2%3A2012-10-05-09-11-58&Itemid=7&lang=sr

²² Commissioner for Protection of Equality, Ipsos Strategic Marketing, "Relation of representatives public authorities towards discrimination in Serbia", Belgrade, 2014. http://www.ravnopravnost.gov.rs/downloads/files/izvestaj_odnos_predstavnika_javne_vlasti_prema_diskriminaciji_u_srbiji_final.pdf

The research extended to representatives of three branches of Government: legislative, executive and judiciary; 10 institutions: National Assembly of republic of Serbia, Assembly of the Autonomous Province of Vojvodina, City Assemblies, Municipal assemblies, Serbian Government, Government of the Autonomous Province of Vojvodina, City councils, Municipal councils, courts and prosecutors.

When it comes to the legal framework for the ban on hate speech, part of the representatives of public authorities are not informed enough because almost a third of representatives of legislative and executive authorities do not know whether hate speech is prohibited by law, and assumes otherwise. Not counting the representatives of judiciary authority and prosecutors²³, two thirds (65%) of representatives of public authorities think that hate speech is prohibited by the law, 18% think it is not, and 17% do not know. To be more precise, 36% representatives of legislative and 27% representative of executive authorities either do not know or thinks that Serbian law does not prohibit hate speech.²⁴ While two thirds (67%) of representatives of public authorities think that hate speech exists in Serbia (19% think that it is very pronounced), almost a third (32%) think that there is no hate speech in Serbia, or to be more exact, 2% think that it is non-existent, while 30% view it as an occasional and sporadic occurrence.²⁵

Most representatives of public authorities think that hate speech should be sanctioned. Still, more than a third think that harsh punishments will endanger the freedom of speech. More than one third (38%) of the representatives of public authorities think that "harsh punishment can easily endanger the freedom of speech", while 57% representatives of public authorities think "that endangering freedom of speech is just an excuse for hate speech to be tolerated."²⁶

Recognition of hate speech towards LGBT population, was assessed through two typical statements. First: "Homosexualism is an illness that should be treated" was recognized as hate speech by 62,3% of all respondents. And from that number, there were 62% of representatives of legislative authorities, 66% of executive authorities and the least, 60% of judiciary authorities.²⁷ Second: "The Pride Parade should be prevented, even by force" 77,6% recognized it as hate speech. From that number, there was 77% representatives of legislative authorities, 79% of executive authorities and 79% of judiciary authorities.²⁸

A large percentage of representatives of public authorities do not recognize discrimination towards LGBT persons, and, as you can see, when it comes to LGBT population, 30% representatives of public authorities think that it is not hate speech when a public figure states in the media that "homosexualism is an illness that should be treated and another 8% are not sure. Some regional differences were noted: hate speech is better recognized by representatives from western Serbia, Belgrade and Vojvodina, and less by those in South and East.²⁹ Differences in what is and isn't considered hate speech are noticeable proportionally to the knowledge of the discrimination index. Persons who have higher knowledge discrimination index are more sensitive to hate speech, but the link between those two is not complete.³⁰

²³ op. cit. p. 42.

²⁴ op. cit. p. 36,37..

²⁵ op. cit. p. 42.

²⁶ Op. cit. P. 44.

²⁷ Op. cit. p. 39.

²⁸ Op. cit. p. 39.

²⁹ Op. cit. p. 40.

³⁰ Op. cit. p. 41.

Besides the Pride Parade, in the end of 2014, the annual "Merlinka" international film festival was held in the Belgrade Youth Centre, as well as the Festival of tolerance whose repertoire consisted, among others, of some award winning LGBT themed movies. IDAHO-Belgrade also held shows and movie projections in the middle of the year, while Hartefakt Foundation presented a book "Between us: Untold gay and lesbian life stories" about the history of homosexuality in Serbia and former Yugoslavia.³¹

Unprocessed cases of hate speech against LGBT population

An administrative worker, M.Dj., in the municipality of Zagubica made homophobic statements (directed at the LGBT population and associations), for some time, when representatives of LGBT association come by to submit demands or complaints. Namely, M.Dj. had pejorative comments about the associations work on the protection of animals, and how they now want to protect fagots as well, and that she doesn't like dogs and LGBT population. She said to give it a rest because the municipality of Zagubica isn't for that kind of stuff, and so on. A complaint was sent to the President of Zagubica municipality, but the outcome is currently unknown.³²

Neuropsychiatrist in one of Health Centres in Belgrade, during control check-up, said to the patient that LGBT rights are Western propaganda and that it shouldn't be like that. He said "sexuality is not a human right...", then "if LGBT people are doing it, they shouldn't show it, because others don't". L.M., the patient, sought advice with the lawyers of Lawyers' Committee for Human rights, but the case was not processed because L.M. was scared that the Health Centre will misuse her information if they find out about the report.

Hate speech in the media: processed cases

Serbia has an sufficient legal, and now strategic, framework to fight violence and discrimination against LGBT population, but there is still problem of implementation of the law, which comes to account when we assess the existence of hate speech. In 2014 several convictions and sentences were issued in the Higher Court in Belgrade against persons who made threats of violence and death, on social networks, directed at the LGBT population. The indictments and prosecution of these perpetrators were led by the special department of the Higher Public Prosecutor's Office in Belgrade for Cyber crime.³³

Even if the media image of LGBT population has improved noticeably and hate speech reduced, journalists still tend to, occasionally, broach this subject from a sensationalist point of view, and disrespect the Journalist Code of Serbia. Although the saw on discrimination bans it, some media, usually tabloids, speculate about sexuality of some celebrities, as means to discredit them. Also, some internet portals still post readers comments which are hate speech against LGBT population. The Appeals Committee of the Press Council has increased its activities and made decisions in the area of breach of the journalist code concerning LGBT population. Adoption of set of new media laws which additionally specify articles concerning ban of hate

³¹ Labris, Annual report on position of LGBTQ population in Serbia for 2014, Belgrade, 2015. <http://labris.org.rs/wp-content/uploads/2014/07/labris-SRB-WEB.pdf>

³² GSA, Annual report on condition of human rights of LGBT people in Serbia 2014., Belgrade, 2015. p.92-93. <http://gsa.org.rs/wp-content/uploads/2015/03/GSA-izvestaj-2014.pdf>

³³ Documentation centre Vreme, 2015. Report on LGBT human rights, Vreme 27th May. <http://www.vreme.com/cms/view.php?id=1300965>

speech and discrimination on basis of sexual orientation and gender identity in media.³⁴ After insulting comments made by presenter of Radio-television of Serbia in May 2015, concerning Conchita Wurst, a trans person and winner of Eurovision Song Contest, RTS expressed regret if this broadcast of the final evening has offended transgendered and other LGBT people.

In November 2014 the Appeals Committee of the Press Council found that daily newspaper "Blic" has breached the Journalist Code of Serbia in texts about actor Goran Jevtic, because there was no assumption of innocence before a court verdict.³⁵

In September 2014 The Appeals Committee of the Press Council, on basis of complaint from GSA, found that daily newspaper "Nase Novine" breached the Journalist Code of Serbia in the text "Just Don't Let This Evil Come Here" that discriminated against LGBT people, specifically LGBT parents. The editorial staff encouraged the spreading of stereotypes and hate, and because these journalist published personal prejudice they sought only interviewees who would corroborate their views.³⁶ By printing the image of gay couple holding a baby and headline "Don't let this evil come here" along with commentary "Where is this world going?" and "God forbid and far be it" as well as discriminatory statements of interviewees. Interviewees made homophobic and discriminatory statements, which breached the Journalist Code of Serbia about the ban of discrimination and spreading of prejudice and stereotype. The Appeals Committee of the Press Council held a session on 4th September 2014 made the majority decision that the text published on the 6th July 2014, daily newspaper "Nase Novine" breached article 1, section IV (Journalist Responsibility) about the journalist obligation to fight all those who violate human rights or stand for any form of discrimination, hate speech and enticement of violence. Also the daily breached article 4 section V (Journalist attention), that states journalists must be aware of the danger of discrimination that can be spread through media and should do everything to avoid discrimination based on race, gender, age, sexual orientation, language, religion, political or other views, and national and social background. It was ordered that "Nase novine" printed this decision within 3 days after it was delivered.

On 28th July 2015. Commissioner for Protection of Equality found discrimination in the headlines: "Protector of Citizens Sasa Jankovic recommends – Give right for faggots in Serbia to adopt children," "Shocking suggestion by the Ombudsman: Faggots in Serbia to adopt children?!" by which daily newspaper "Informer" discriminated LGBT population. Daily newspaper "Informer" was advised that in the future they should not print reports that are demeaning and insulting to the LGBT population, as well as to pay attention, within its regular activities and business, not to break the law on the ban on discrimination.

The Appeals Committee of the Press Council wasn't able to reach decisions in two cases of alleged hate speech

1. The Gay Lesbian Info Centre made a complaint against the magazine "Svedok"³⁷ because they believed that the article "Ga(y)stapo ravages Europe" magazine "Svedok" breached

³⁴ Labris, Annual report on position of LGBTQ population in Serbia for 2014, Belgrade, 2015. <http://labris.org.rs/wp-content/uploads/2014/07/labris-SRB-WEB.pdf>

³⁵ Documentation centre Vreme, 2015. Report on LGBT human rights, Vreme 27th May. <http://www.vreme.com/cms/view.php?id=1300965>

³⁶ Press Council, Gay straight alliance against "Nase novine", 2014. <http://www.savetzastampu.rs/cirilica/zalbeni-postupci/1803>

³⁷ Press Council, Gay lesbian info centre against magazine "Svedok", 2015. <http://www.savetzastampu.rs/cirilica/zalbeni-postupci/2616>

Journalist Code of Serbia. In many places the author of the article wrote untrue things and deliberately altered information to create negative attitude towards LGBT population. Throughout the article, the author, refers to the LGBT population as an ideology this insults the dignity of certain parts of the LGBT population. The Appeals Committee of the Press Council, on 26th June 2015 was not able to agree on the decision whether "Svedok" article's "Ga(y) stapo ravages Europe", published on 2nd June 2015, breached articles of the Journalist Code of Serbia. Part of the Committee challenged the right of the Gay and Lesbian Info Centre to make such complaint because this organization was not "personally injured" by the content. Most members thought that the article discriminated the LGBT population in general and that every member of this population could feel injured by the content. Six members voted "Yes" that the article breaches the Code, two were "Against" the decision of the breach of the Code is made of at least one representative of all four founders of Council and at least one of the public representatives' votes.

2. The Gay Lesbian Info Centre made a complaint against portal "Srbin.info"³⁸, because they think that the by article about gay parade in Moldavia, internet portal "Srbin.info" breached Journalist Code of Serbia by commentary in the headline "Congrats"³⁹ supported violation of human rights, discrimination and enticed violence. It is not the Pride parade in Moldavia, it is the context in which breaking a gay assembly in Moldavia and approval from the media, and taking side of the abusers. Knowing what kind of climate is generated by Pride Parade in Belgrade, this headline approves and promotes violence and the banning of such events in Serbia, and that is breach Journalist Code of Serbia. Srbin.info portal is not member of Press Council and as such can not be under the jurisdiction of this NGO.⁴⁰ There is obvious attempt of an NGO, in the interest of its founders, financiers or other hidden agenda, to influence editorial policy of on absolutely independent internet medium Srbin.info, with the goal to intimidate or submit under control, by starting some procedures by unauthorized and biased bodies, in spite of freedom of thought and right to public information. The Appeals Committee of the Press Council was not able to reach a decision if Gay lesbian info center is authorized to make complaint about article "Congrats – Gay Parade smashed in Moldavia", published on 8th May 2015 on portal "Srbin.info", If Commission should accept to consider this complaint, respectively if this is something that is about LGBT population in Serbia, so that their representatives should approach the Press Council as someone who is personally injured by this article. A number of members thought that support for breaking up Pride Parade in another country does not directly relate to LGBT population in Serbia, and that NGO from Serbia can not represent rights of LGBT population in other countries. Other members thought that the complainant is authorized, because it doesn't matter where it happened, it is the question of interpretation. Indubitable support of "breaking" the Pride Parade, carries, as they say a message that it should be done here, which is indirect call for hate and violence against LGBT people in Serbia.

³⁸ Press Council, Gay lesbian info centre against Srbin.info", 2015. <http://www.savetzastampu.rs/cirilica/zalbeni-postupci/2581>

³⁹ Portal "Srbin.info", Congrats – Gay Parade smashed in Moldavia! 18th May <http://srbin.info/2015/05/18/svaka-cast-razbijena-gej-parada-u-moldaviji/>

⁴⁰ Portal "Srbin.info", Futile attempts of gay lobby to shut down "Srbin.info", 15th May. <http://srbin.info/2015/06/01/uzaludni-pokusaji-gej-lobija-da-ugasi-srbin-info/>

In procedure

Gay Lesbian Info Center made a complaint against magazine "Tabloid"⁴¹ because they thought that the article "Where is this world going?", published 14th July 2015, breached several articles of Journalist Code of Serbia. The text equates paedophilia with homosexuality. LGBT community is presented as abusers whose goal is to destroy the heterosexual family and take their children. In the beginning of the text authors call for resistance to Sodom and Gomorrah, or else Europe will perish. These kind of texts present LGBT population as hostile, and as offender to fight against and there by indirectly calls for violence.

Hate graffiti

A large number of typical hate speech that we see in Belgrade began to appear on the walls during 2009. Parade organising, and from that point on they appear regularly.⁴² Typical messages, on typical high visibility and public spots are: traffic light at the Nemanjina street near the Army Headquarters, written in big Cyrillic letters, "Faggots on gallows". Second one is after crossing of Pancevacki bridge, on the road to Borca, written on the billboard is "Be Serb – don't be faggot". Fight against homophobic graffiti didn't show effect, either as sporadic or as individual actions.⁴³ The only real measure to fight this tyranny of homophobic graffiti is to permanently remove it.

There aren't many streets in Belgrade, building or monument without some message scribbled, and the threats to the organizers or to participants of the Parade are most common ones. It leaves an impression that it is physically and politically abandoned environment in which hate is a part of everyday life. It presents ugliness and its removal must be done with special conservatory methods which cost city tens, even hundreds of thousands of dinars. For recovery (including graffiti removal) of monument to Knez Mihailo Obrenovic on Main Square, a million dinars was spent in 2013.

In the broader city centre, for every announced, held or banned Parade everything is covered with the threats to participants of the Pride Parade.⁴⁴ On the façade of certain building and on the billboards spanning from Slavia to the centre: "Don't want dad and dad", "Stop gays", "Stop the Parade" and "They won't walk 28th September 2014." Messages like "Stop gay parade" written on Kneza Milosa street, right across from The Government building, also graffiti on Zeleni venac, as well as several places in New Belgrade, especially around Arena and near the B92, so on, building, were condemned by Director of the Office for Human and Minority Rights Suzana Paunovic in 2014. Homophobic graffiti as a specialty of Belgrade ambience spread to Wien. Namely, on Wien center for lesbian, homosexual and transgendered persons - Rosa Lila Villa⁴⁵, unknown persons wrote homophobic death threats in German and Serbian. Because it was written in Serbian it is linked with the announcement of Belgrade Pride Parade. The line

⁴¹ Press Council, Gay lesbian info center against "magazine "Tabloid", 2015.

<http://www.savetzastampu.rs/cirilica/zalbeni-postupci/2744>

⁴² Start Street Art BG, 2014, Graffiti as weapon of "Serbianity", 22nd February
<https://startstreetart.wordpress.com/2014/02/22/graffiti-kao-oruzje-borbe-za-srpsstvo/>

⁴³ There was a feminist activist initiative where girls self organized and wiped the graffiti from visible stops in the city, but they didn't have enough funds, or human resources to keep it going.

⁴⁴ Politika, 2014, Threatening graffiti shortly before Pride Parade, 24th September. <http://www.politika.rs/rubrike/Drustvo/U-centru-Beogradu-osvanule-pretnje-ucesnicima-Parade-ponosa.lt.html>

⁴⁵ B92, 2014, Wien: Graffiti against LGBT in Serbian, 27th September.
http://www.b92.net/info/vesti/index.php?yyyy=2014&mm=09&dd=27&nav_category=78&nav_id=904918

where hate speech becomes a crime is very thin, says Committee for human rights Nis, city covered with graffiti especially against homosexuals.⁴⁶ Most appeared before Pride Parade. Citizens of Nis don't mind the graffiti, they are more concerned with ruined facades, and not about the messages. It is more serious that it is perceived, because the LGBTI population, except the discriminatory messages, is under negative pressure at all times.

Hate graffiti is a subgroup of hate speech. We should always keep in mind that the freedom of speech is one of the highest values in society, but history teaches us about danger of tolerating the abuse of free speech, because hate speech is just that – an abuse of that freedom. So it is important to sanction hate speech, especially keeping in mind danger to free speech. When street graffiti expresses hate speech, they are part of phenomenon that is legally-politically defined as hate speech and it is in the zone of misdemeanour and/or criminal culpability. They have meaning of hate, but also meaning of positive evaluation of evil and hate. By that, hate graffiti become intellectual concepts that have the power to legitimize evil. The numbers of recipients of the messages in public space contributes to acceptance of hate messages. Metaphorically speaking, hate graffiti start again every time the message in public space is left to long, and it produces the air of acceptance and permissibility, which again opens the door for new "products" of similar type, new "beginnings" new cycles of hate graffiti, but with old and well known messages.

What is and isn't hate graffiti may seem like unnecessary question, because it seems that messages like "kill the faggot" or "death to Parade", are self-explanatory, without further need to interpret or classify. Save those mentioned which are un-doubtlessly fruit of hate, there are those may not be, at first glance. Graffiti "foreign mercenaries" on walls or near the offices of NGOs surely have hate motivated stigmatization and threat, while written in the market, parking or the beach, usually don't have that connotation. A special case was when the hate graffiti were written near an organization for LGBTI rights or near or on the walls of buildings where their activists live. Then they seem more threatening with its call for violence and lynching. Because of these cases, it is necessary to point out the UN document⁴⁷ that protects human rights defenders from assault, threats, intimidation, discrimination, media hunt and state inactivity in protecting them from all aforementioned.

Threatening messages and graffiti were found on the building where Boban Stojanovic, LGBT activist, lived in 2013. Next to a swastika there was a sticker which said "We know where you live, we know where you sleep" signed "Combat 18". "These and similar hate crimes require immediate reaction of the authorities and severe punishment. In a democratic society such is Serbia attempts to be, human rights and freedom of every individual must be guaranteed and protected", warned Nevena Petrusic, Commissioner for Protection of Equality, in a written statement.⁴⁸

⁴⁶ B92, 2011. Nis full of graffiti against LGBT, 5th November http://www.b92.net/info/vesti/index.php?yyyy=2011&mm=11&dd=05&nav_id=555221

⁴⁷ UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to the promotion and protection of universally recognized human rights and fundamental freedoms, abbreviated, the Declaration on Human Rights. The provisions of its Article 12, states that the State shall take all necessary measures to ensure through competent authorities ensure the protection of all individuals and organizations from violence, threats, retaliation, de facto or de jure discrimination, pressure or any other arbitrary actions that might occur as a consequence of their legitimate enjoyment of the rights referred to in this Declaration.

⁴⁸ RTS, 2013, Threats to LGBT activist Boban Stojanovic, 28th October. <http://www.rts.rs/page/stories/sr/story/125/Dru%C5%A1tvo/1429988/Pretnje+LGBT+aktivisti+Bobanu+Stojanovi%C4%87u.html>

Day after the Pride Parade in 2014, near the family home of Predrag Azdejkovic, president of Gay lesbian Info Centre, posters of his interview were pasted and calls to lynch him. By the way, his house was stoned several times in previous years. This report was found unfounded by prosecutors office, as well as the report on phone threats to GSA.⁴⁹

Effects of hate graffiti: (1) intimidate the population that is threatened and hated. That population sees it as announcement for real violence (hate speech as theory and violence as practice). (2) Second, almost opposite contextual effect hate graffiti have on those who are like-minded as the writers of hate graffiti, they share same values, same hate towards the same targeted group. They are encouraged in those views by this graffiti, they are mobilized by them stating that they are not alone and the only ones, because there are people who feel the same way and could be joined, because time has come to gather and take action. Especially homophobic graffiti can have this mobilizing, encouraging effect for those who think alike or similarly, creating or supporting the notion that they are numerous and omnipresent, as well as "right" to have those views. (3) Finally, hate graffiti, also contaminate public communication space, by being unobstructed and by their long-term visibility, they create and support the idea of "acceptance" of its messages and views, acting in a way Marcuse defines as "normalization of evil". By their repetition, presence and longevity graffiti become an intellectual concept that has the power to legitimize evil.

Actions against homophobic graffiti from 2013. to 2015.

In April 2013. during the "Kustosiranje" project in Youth Center gallery⁵⁰ an exhibition was held which presented video works from seven artists who chose subject of hate graffiti on Belgrade facades. Till 21st April, visitors could see 3 video installations with sound, connected to objects placed around the space. Exhibition presents reactions of young people to messages of hate and call for lynch, that no one reacts to. "Kustosiranje" is project of educational and research character, designed for students and professional in arts and culture, but also open for the interested public. It had a purpose to encourage young artists to react to the context they live in.

A city is what the citizens make it. So the city Government at the end of 2014 and beginning of 2015. Under the slogan "Who writes graffiti will have to clean them up", proposed change of regulation that will enable, except for misdemeanour penalty, those who write graffiti will have to erase it and those written by others. Big cleanup of Belgrade city center from hate graffiti in April 2015. represents the wish for citizens, schools, NGOs, and all those who want to help can join in the graffiti removal, because if we all don't take care of Belgrade it will be ugly. Main message of this action is that we all must take care of the place where we live. There is no city service or communal police that can save the city if the citizens don't do it themselves. In just one action 6500 square meters of graffiti was removed, most of them homophobic. April will remain cleaning month. In addition most of the facades protected by the state will be video monitored, so that those who write graffiti can be identified and stopped from ruining city

⁴⁹ Documentation centre Vreme, 2015. Report on LGBT human rights, Vreme 27th May. <http://www.vreme.com/cms/view.php?id=1300965>

⁵⁰ Free Europe, 2013, Exhibition "We are waiting for you": Hate graffiti trouht Bgrade artists prism, 9th April <http://www.slobodnaevropa.org/content/grafiti-mrznje-kroz-prizmu-beogradskih-umetnika/24952576.html>

facades again. But there will be enough space left, where graffiti will be allowed, where those who want can leave their message, painting or artistic intervention.⁵¹

Campaigns for beautifying the city, such as "Beogradizacija" and "Colour the city" are effective but sporadic, and Belgrade needs comprehensive and long-term plan as New York and Paris have, at least to protect central parts of capital and its cultural and historical heritage. Example of initiative supported by home cleaner manufacturers and its commercial slogan "Sometimes it take so little to keep it clean". Action under the name "Cif cleans Serbia" is going on for second year. Together with citizens and institutions cultural monuments will be cleaned in cities throughout Serbia.⁵² The goal is to clean important monuments, cultural and historical landmarks, and to remind us all about hygiene, not just at home.

Anti-graffiti actions of mayor of Novi Sad, Milos Vucevic, came to attention in 2014. He formed an anti-graffiti unit with goal to remove all graffiti, which deface Novi Sad, from facades. The priorities were hate graffiti. First to be removed were homophobic graffiti. After the news that Novi Sad has formed anti-graffiti unit, a great number of reports came from citizens, so the removal started, first were those whose content spread intolerance, hate and discrimination. Not long after 1000 locations were listed for graffiti removal. Not to be just restrictive, there will soon be locations where murals can be painted, to beautify the city. This action is expected epilogue to action "Mapping of hate graffiti in Novi Sad"⁵³ which was started by Ombudsman of the Autonomous Province of Vojvodina and Institute for Gender Equality. That campaign called into attention the number of wide spread graffiti that entice violence, lynch and discrimination on different grounds, and a great number of those are hate messages directed at LGBT population. 224 hate graffiti were mapped and photographed, more than half (56%) are hate speech towards LGBT population, which reflects high level of homophobia and transphobia in society for years now.⁵⁴

Right to assembly

Freedom of expression and peaceful assembly⁵⁵

13. Member states should take appropriate measures to ensure, in accordance with Article 10 of the Convention, that the right to freedom of expression can be effectively enjoyed, without discrimination on grounds of sexual orientation or gender identity, including with respect to

⁵¹ Blic, 2015. Spring city cleaning: 6500 square meters of graffiti removed from facades, 14th

April

<http://www.blic.rs/Vesti/Beograd/550648/Prolecno-ciscenje-grada-Sa-fasada-uklonjeno-6500-kvadrata-grafita>

⁵² In Vranje on 10th April monument to Serbian writer Bara Stankovic was cleaned and protected

⁵³ Ombudsman of the Autonomous Province of Vojvodina, Mapping of hate graffiti in Novi Sad, 2011

<http://www.ombudsmanapv.org/riv/index.php/vesti/ostale-vesti/163-informator-o-radu-pokrajinskog-ombudsmana54.html?highlight=YToxOntpOjA7czo0OjIsZ2J0Ijt9>

⁵⁴ rest 44% are hate graffiti based on nationality, ethnicity and religion, while 5% refers to other personal characteristics such as gender or disability. And among those the most common is hatred of Roma people (63%), Albanians (17%), Croats (13%) and Chinese (7%). From all the mapped graffiti 35% call for taking lives.

⁵⁵ Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity

the freedom to receive and impart information on subjects dealing with sexual orientation or gender identity.

14. Member states should take appropriate measures at national, regional and local levels to ensure that the right to freedom of peaceful assembly, as enshrined in Article 11 of the Convention, can be effectively enjoyed, without discrimination grounds of sexual orientation or gender identity.

15. Member states should ensure that law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of lesbian, gay, bisexual and transgender persons from any attempts to unlawfully disrupt or inhibit the effective enjoyment of their right to freedom of expression and peaceful assembly.

16. Member states should take appropriate measures to prevent restrictions on the effective enjoyment of the rights to freedom of expression and peaceful assembly resulting from the abuse of legal or administrative provisions, for example on grounds of public health, public morality and public order.

17. Public authorities at all levels should be encouraged to publicly condemn, notably in the media, any unlawful interferences with the right of individuals and groups of individuals to exercise their freedom of expression and peaceful assembly, notably when related to the human rights of lesbian, gay, bisexual and transgender persons.

Although LGBT people deal with lots of problems ranging from different forms of discrimination to different forms of violence, one of the main problems in Serbia for years now, is right to assembly, especially at the Pride Parade once a year. All other questions come to this, a wider spectre of human rights and freedom, attitude of the authorities towards the citizens, problem of unsanctioned hooliganism, well as Serbia's EU integration process, those are all questions of interest for all citizens, not just LGBT population.

It is clear that an assembly named Pride Parade can be held only with outmost efforts from the organizers, as well as police, also that other public LGBT assemblies, announced as well as spontaneous, unannounced, can be held with a lot less security risks, which opens possibilities for regular and safer holding of Pride Parade. That the existing Law on citizen assembly from 1992. The law has not been harmonized for a while, with the needs of Serbian citizens be they LGBT or not, neither with the international documents. So it is about time to adopt new, up-to-date law, and by that Law a practice will be formed, which will either stop or make serious difficulty for all public assembly with LGBT theme to be held, especially Pride Parade, which organization will still consist of lot of complicated negotiations with many institutions of different level, with a lot of uncertainties which will depend on *ad hoc* political situation; the Parade itself (with all gongs on and confrontations) has a positive outcome in making LGBT rights more visible and recognizable in society, acting as a mobiliser in a positive way for the institutions and citizens alike; it is clear that there is strong and determined LGBT activism in Serbia, amongst other things, empowered by organizing of Pride Parades, able, in spite everything, internal and external difficulties, to fight for and obtain its' human rights, thus becoming unavoidable actor in social change of LGBT position in Serbia.

Public policy

Strategy for prevention and protection from discrimination adopted by the Government in 2013. Also points to the problem of public assembly. Government of Republic of Serbia shows readiness to provide its citizens of different sexual orientation and gender identity right to assembly. Security, especially in connection with the exercise of the right to peaceful assembly is the most important priority in terms of LGBT people. Practice shows, also, a professional improvement by members of the police in regard to protecting LGBT people from violence.⁵⁶ As one of the measures provided by the Strategy is to ensure complete exercise of rights to peacefully assemble in open and closed space for LGBT people, through enabling mechanisms for protection of participants of those assembly and to act preventively as to identify potential security threats and their elimination.⁵⁷ In Special Goals⁵⁸ the Strategy in the first place provides enabling of all public manifestations in regard to its positive regulations with ensured safety of participants before, during and after public peaceful assembly. Taking preventive and security measures to achieve security of the participants of peaceful public gatherings in favour of human rights of lesbian, gay, bisexual and transgendered persons from any kind of unlawful interference or preventing the effective enjoyment of their right to freedom of expression and peaceful assembly. Preventive actions in order to stop any threats, assault or disabling of such public assembly. Education about rights of LGBT persons. Enabling non-discriminatory conditions for political participation of LGBT persons in political parties, representative bodies, security institutions, independent human rights institutions as well as local Governments.

The Action Plan for Strategy for prevention and protection from discrimination amongst measures continually performed from 2014 to 2018, prescribes professional training for members of the police about ban on discrimination, preparing, organizing and executing training, amongst other, about right to peaceful assembly of LGBT persons, as well as causes of security risks, and developing of culture of tolerance as basis for their security. The Ministry of Interior will realize this measure.

2013

Representatives of the European Commission visited Belgrade in February, in the framework of the Enhanced Permanent Dialogue between Serbia and the EU, and stressed that in the coming months, great attention will be paid to monitoring the respect for the rights of sexual minorities, which would include the Pride Parade that year. During this visit, they pointed out: "EU believes that the existing legal regulative in LGBT rights domain in Serbia is adequate, but it is necessary to step up efforts to put into practice all proclaimed articles."⁵⁹

On 18th April 2013 The Constitutional Court reached a decision regarding constitutional complaint Association "Pride Parade Belgrade" which organized Pride Parade 2011. And whose goal was promoting equality and visibility of persons of different sexual orientation. This assembly was banned by the judgment of police station Savski Venac. In its decision the Constitutional Court reaffirmed its position of inefficiency of legal remedies that were available for the organizers in regard to Law on citizens assembly. Although, the assembly was scheduled

⁵⁶ Strategy for prevention and protection from discrimination, 4.4.2.2. Respect of legal framework, need to further develop it and actual situation in certain areas

⁵⁷ Strategy, op.cit. 4.4.4. Measures

⁵⁸ Strategy, op.cit. 4.4.5. Special Goals. 4.4.5.1. Freedom of peaceful assembly, freedom of expression, and political and social participation of LGBT people.

⁵⁹ Vreme – 2013, LGBT rights: Short and clear, br.1159. 21st March.
<http://www.vreme.com/cms/view.php?id=1104989&print=yes>

for 2nd October, judgment of ban was issued on 30th September 2011, legal remedies prescribed by the Law would have had post-hoc effect, that is to say, they couldn't provide timely, and thus effective protection of the rights of the injured. In this case, The Constitutional Court didn't go in to the assessment whether it was legal, legitimate, proportional and necessary to ban Pride Parade, in this democratic society, but instead made decision that the right to peaceful assembly was "indirectly" violated, and by that the organizers were denied the right to effective legal remedy. This decision was criticized by BG center for human rights, taking into account of the role that Constitutional Court has in improving democracy and rule of the law it would have been important that Constitutional Court made ruling about whether the ban was legal, legitimate, proportional and necessary in this democratic society, especially for the reason that ban of Pride Parade has become almost systematic limiting of human right to assembly in Republic of Serbia. Constitutional Court Decision that would confirm it could bring impact on future treatment Ministry of Interior and collapsed credibility of the homophobic statements of Government officials that can be heard in the media on the eve of the organization of the Pride Parade. The Constitutional Court Decision about the substance of (not) allowing restrictions of the freedom of assembly would definitely used its' authority to influence the creation of a climate of tolerance and understanding in society.⁶⁰

In 2013. Parade was banned. The decision on ban of Parade, planned for 28th September 2013, was issued on 27th September 2013, even though the assembly was reported on 5th October 2012 Republic of Serbia, in 2013, missed the positive obligation to protect participants from third parties, most of all members of extreme organizations, that wanted to violently stop the Pride Parade. Organizers of Pride Parade 2013 were informed that they need a number of approvals by public services and authorities of City of Belgrade and Municipality of Savski Venac. Gathering of this documentation would take months, and the necessary decision was issued in August 2013. Organizers of the Parade had an obligation to present, to the relevant authorities, a project of the stage that was to be set up in the Manjez park, as well as detailed information about the legal entity that will perform monitoring jobs at the assembly. They were also asked to pay a down payment for the costs of changing city transport routes, because the Pride Parade was expected to be moving assembly. On the other hand, moving assembly by Serbian radical party, celebrating Voislav Seseljs 10 year anniversary of voluntarily going to the Hague tribunal and moving assembly "Stop supporter victims" organized by the association of football supporter groups, were held with only a reported at the local competent police station. This kind of practice shows unequal treatment of assembly organizers by authorities, which is totally unfounded and can represent serious restriction of freedom of assembly based on discrimination.⁶¹

Decision of the ban was issued by the bureau for coordination for security services, and it decided to ban all public assemblies reported for Saturday 28th September 2013. Meeting, called by chief of the Bureau, Aleksandar Vucic, lasted several hours, all chief of security services were present, as well as prosecutors and Prime Minister Ivica Dacic.⁶² Bureau for

⁶⁰ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2013 – Law, practice and international standards of human rights, Belgrade, 2014. p.202.
<http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2014/04/Ljudska-prava-u-Srbiji-2013.pdf>

⁶¹ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2013 – Law, practice and international standards of human rights, Belgrade, 2014. p.48.
<http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2014/04/Ljudska-prava-u-Srbiji-2013.pdf>

⁶² Labris, Annual report on position of LGBTQ population in Serbia for 2013, Belgrade, 2014.p.24-26.

coordination for security services decided on a ban, in its extended version of 12 members.⁶³ During the meeting, unofficial information came out, that 6 members were for having the Parade, 6 against, but at the end the decision to ban all assemblies for Saturday 28th September 2013. Bureau made unanimously. Police also waited for this decision, but in the meantime heavy police forces were relocated in the city. According to unofficial estimates 6500 police officers were to secure Pride Parade.

In the climate of systematic breach of Constitution and Law on citizens assembly in it necessary to remind ourselves of some statements made by the authorities. First Prime Minister Dacic said "homosexuality is abnormal and unnatural, and it is not normal to plan Pride". The Patriarch Irinej stated "Fools take pride in things that smart people are ashamed of". These words encouraged more aggressive groups that don't accept concept of human and minority rights, to clash with its opponents. Nebojsa Bakarec, deputy president of Executive board of Democratic party of Serbia entered the premises of Cultural institutor "Parobrod" during an LGBT rights seminar for high school students, organized by youth group of Helsinki Committee for Human Rights in Serbia, and tore down posters. At the same time, Dragan Markovic Palma repeated his hate statements towards the LGBT population.

Chaos and confusion that reigned before banned Parade embodied in an open letter to the Secretary General of the trade union of Serbian police, Mr. Lazar Ranitovic where he calls for common sense and responsibility, to avoid "showbiz like behaviour and exhibitionism". Professionalism of Serbian police was never called in to question [...] But police officers don't want to be targets, especially to be brought in to that position by their minister. We ask you to also protect us. We ask you, as most responsible persons in the State to support us by publicly promising and warning those who oppose the gay Parade, that they will be prosecuted by short procedure and severely punished if they attack procession or Serbian police. [...]

Nothing illustrates the atmosphere in Serbia more that this open letter before the forth banned Parade. Hiding from liability and transfer the 'hot pride parade potato' in the hands of "the other" was in action. It once again showed lack of will to stop the hooligans and to respect human and minority rights, as well as Constitution and laws of this country. Reasons could be found in pre-election calculations which seem more important than EU integration. Member of organizing board of Pride Parade, Goran Miletic, said that Parade is not on the list, but if it doesn't happen that it would have severe consequences, because it would be violate the basic right to assembly. Pride Parade was banned same way, as the year before. Last happened Parade in 2010, under heavy security forces and war with the hooligans on the streets. On question did the hooligans defeat the State, Commissioner for Protection of Equality Nevena Petrusic said, that there are no hooligans who can defeat the State, as it was shown many times in other occasions. However, she states, it is a fact that the "Government authorities and those who are required to eliminate all security threats let extremist groups get stronger."

<http://labris.org.rs/wp-content/uploads/2014/07/Godi%C5%A1nji-izve%C5%A1taj-o-polo%C5%BEaju-LGBTIQ-populacije-u-Srbiji-za-2013.-godinu.pdf>

⁶³ Rodoljub Milović – Chief of Criminal Police, Veselin Milić – Chief of Belgrade Police, Milorad Veljović – Director of Police, Dragan Marković – Deputy director of Security-Informational Agency, Milorad Simić – advisor to President of Serbia Tomislav Nikolić, Ivica Tončev – advisor to Prime Minister of Serbia, Svetko Kovač – Chief of Army Security Agency, Dragan Vladislavljević – Chief of Army Intelligence Agency, Zagorka Dolovac – republic prosecutor, Miljko Radislavljević – Special Prosecutor for Organized Crime, Nikola Selaković – Justice Minister i Aleksandar Vučić – First Deputy Prime Minister and Chief of Bureau.

Organizational board of Pride Parade 2013. on press conference assessed that the "Government missed the opportunity to express respect for all human rights and thus take a big step forward," said the European Parliament Rapporteur Jelko Kacin, Head of EU Delegation to Serbia Michael Davenport and Swedish Minister for European Affairs Birgitta Ohlsson. The ban of Pride Parade will reflect the European Commission's report on Serbia's progress in European integration, said Davenport, while Ohlsson stated no Government can choose who should love who, or what we can hope for or expect. Council of Europe assessed that "third in a row ban on Parade is sorrowful", said spokesman for Thorbjørn Jagland Council of Europe Secretary General. It is very important to emphasise that the organizers of Pride Parade, besides the report to the police, were asked to provide 11 permits from 10 City institutions. The opposing supporters "counter assemblies" were not asked to provide anything.

This is the fourth time that the Parade was banned, which shows a systematic violation of the right to assembly when it comes to promoting a view that is not approved by majority. Revolted by another ban organizers and potential participants of Pride Parade organized a protest walk in front of Republic of Serbia Government building on 27th September, it happened without incident under police protection. This fact shows that holding this kind of assembly was quite possible. No controversial public assembly can be free from risk. If this was a test that would allow the restriction of freedom of assembly that would mean that every assembly could be banned just because a group of thugs wants to prevent it, and because the State is unable to protect the participants from all kind violence.⁶⁴

Protector of Citizens stated for TANJUG that "authorities in Serbia, by the act of banning of Pride Parade, actually, made sincere decision."⁶⁵ He said that the decision to ban the Parade "accurately reflects the attitude of those who have made it and of what they have about human rights – we will protect them, but only if we like them, and if that doesn't cause problems with our electorate"⁶⁶ In its annual report said that the Government should ensure the full realization and protection of the rights of LGBT people, in particular the protection of physical and mental integrity and freedom of assembly and to provide holding the Pride Parade.⁶⁷

That which worries is, besides these views, the practice of the authorities did not change to be in accordance with what The Constitutional Court said. Concretely, in cases when the assembly is banned, police still doesn't explain its decisions just paraphrases the relevant article, or doesn't make them in due time, which is exactly that he Constitutional Court said it wasn't allowed.⁶⁸

The communique by UN Special Rapporteur on the right to freedom of peaceful assembly and association passed unnoticed in public. The Special Rapporteur of the United Nations 2013 expressed regret that the Serbian Government has not responded to the communication concerning a ban on Pride Parade 2011. The Special Rapporteur remains seriously preoccupied

⁶⁴ BG centre op.cit. p.197

⁶⁵ Labris Report, p.30.

⁶⁶ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2013 – Law, practice and international standards of human rights, Belgrade, 2014. p.198.

⁶⁷ Protector of Citizens, Annual report for 2013. P.63
http://www.ombudsman.rs/attachments/3237_Godisnji%20izvestaj%20Zasttnika%20gradjana%20za%202013%20%20godinu.pdf

⁶⁸ BG centre, Report 2013. op.cit. p.203

with the situation of Mr. Koenig and reported that it took too long for to police investigate in this case. He calls for the authorities to conduct a thorough investigation and punish the perpetrators. The Special Rapporteur remains concerned about the physical and psychological integrity of those who work and advocate for the rights of LGBTI persons, working to promote equality and non-discrimination, especially in exercising their right to freedom of opinion and expression, association and peaceful assembly. He calls for the authorities to "take positive measures, including affirmative action, to ensure that all individuals belonging to groups at highest risk [such as LGBT people] have the opportunity to effectively exercise their rights, including the freedom of peaceful assembly and association" (A / HRC / 26/29, para. 73 (c)). The Special Rapporteur calls on the authorities to take all appropriate measures to ensure that any individual or legal entity can peacefully exercise their rights to freedom of peaceful assembly and association. He recommended that the Government establish a favourable and secure environment that allows individuals to exercise their legitimate freedom without unnecessary obstacles. Thorough and independent investigation should be taken on any of the allegations of human rights violations, including acts of intimidation or harassment committed against those who try to exercise their rights to freedom of peaceful assembly and association; and those responsible should be held accountable; and victims should be given a full recompense. The Special Rapporteur calls on Resolution 24/5 of the Council of Human Rights, especially on operative paragraph 1 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and freely -... including those representing minorities or different opinions or beliefs, human rights defenders, trade unionists and others and to take all necessary measures to ensure that the restrictions on the right to freedom of peaceful assembly and association in accordance with international human rights law "⁶⁹

Only after the ban of the Pride Parade in 2013, the police filed 18 criminal charges against persons who threatened the organizers of the Parade through social networks. Authorities, in the judgment of the Commissioner for Protection of Equality, however, fell short of taking preventive measures that would allow the Pride Parade, so as "not doing enough to reduce homophobia and develop the spirit of tolerance which is showed by the alarming data on the amount of hatred towards the LGBT community that exists especially among young people ... "⁷⁰

2014

For the first time after 2010, 2014, the Pride Parade was held in Belgrade on 28th September⁷¹. The right to freedom of assembly is a fundamental right of democratic societies. In Serbia, this right is regulated by the Constitution, the Law on Public Assembly, as well as a number of international conventions to which Serbia is a signatory. In 2014 the right to freedom of assembly for LGBT people was fully respected, bearing in mind that no public meeting which concerned the human rights of LGBT persons was not banned, and all were held. It should be noted that the events of 2014 took place in a specific socio-political landscape, taking into account the extraordinary parliamentary elections were held in March, but above all the catastrophic floods in Serbia in May, that's why the Parade scheduled for May was postponed

⁶⁹ United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Serbia Communications: May 1, 2011 To February 28, 2014. <http://freeassembly.net/rapporteurreports/serbia-communications/>

⁷⁰ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2013 – Law, practice and international standards of human rights, Belgrade, 2014. p.198.

⁷¹ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2013 – Law, practice and international standards of human rights, Belgrade, 2014. p.202-203.

for September, and the action Hate free zone commemorating the International Pride Day is reduced to a smaller volume. All assemblies, especially the Pride Parade, were secured by strong police forces, and the police, as in previous years continued to protect and gathering places for LGBT people, such as clubs and bars, as well as various events that were realised by organization engaged in the promotion and protection human rights of the LGBT population. After being banned for three consecutive years by the relevant Government institutions (from 2011 to 2013) on 28th September 2014 the second Gay Pride Parade was held in Belgrade, which is unlike the one in 2010, passed without incidents and organized attacks on participants of this assembly, both at the time, or in the period immediately before and after it was held. Relevant institutions, headed by the prime minister of Serbia, acceded much more seriously than previously to create conditions for the Parade to happen.⁷²

The assembly was reported on 17th June 2014 to Police station Savski venac and Police station Stari grad. In addition to the report on assembly Ministry of Interior asked the organizers to submit additional documents: Approval of the Secretariat of Transport for which fees are charged 5,150 dinars, consent of Public Greenery Belgrade, decision of Stari Grad Municipality, consent from the City Directorate for Public transport. After receiving these documents, the organizers submitted requests to the Traffic Police for the City of Belgrade, City Institute for Emergency Medical Services and appeal to Belgrade city administration to remove flowerpots, garbage cans, to make available 700 barriers for the masses and for the exemption from cash fees. It was also necessary to submit an appeal to Water Supply and Sewage of Belgrade system for the transfer of two tanks of drinking water. Copies of all requests and approvals were required to be submitted to the police station of Stari Grad and the police station Savski Venac. The problem is that the decision on these requests and appeals take too long, and that a decision on one condition demands a decision on the other. The organizers were invited to meetings in the City Hall, which are held every Wednesday and which, according to them, were a lot of help in the organization of the Pride Parade.

The pride parade was attended by between 1,000 and 1,500 participants, it was secured by a large number of police and gendarmerie. Strong police forces with riot gear blocked the center of Belgrade. The procession of the Pride Parade gathered in front of the Government of the Republic of Serbia in 12 o'clock from where it headed to the City Hall, where about 13 o'clock the rally was held. During the Pride Parade police detained 16 people who had torches, batons and knives, and some of them did not have identity documents. A group of fifty people tried to break through the cordon but were stopped by the gendarmerie. Also, a group of young men started from St. Sava church towards the city centre, but were stopped by the gendarmerie on Slavija. Young men then pulled back and started hitting the police with stones.

A group of 30 hooligans attacked the B92 building and the police who had secured it. Two police officers were injured. During the Pride Parade there were no counter assemblies, but the anti-parade group "Dveri" that opposes the Parade organized a prayer on Saturday evening 27th September. After the Pride Parade had already been completed on September 28th in the afternoon, supporters of the group "Dveri" had gathered at the liturgy in the Saint Sava church from where they walked to the Orthodox church. And this event has passed without incident.

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GSA, Annual report on condition of human rights of LGBT people in Serbia 2014., Belgrade, 2015.

<http://gsa.org.rs/wp-content/uploads/2015/03/GSA-izvestaj-2014.pdf>

Although strong police forces secured the Pride Parade, they are also prevented participation in the parade. That is to say, that the Pride Parade could only be entered at certain points with rigorous police control. To these "entry points" citizens, however, have had to pass through several police cordons which, for security reasons, did not allow citizens to come to the "entry points". Thus, many of whom wanted to attend the Pride Parade did not have access to the assembly. Also, strict police control prevented citizens, who were not participants of the Pride Parade, to be present on the streets of Belgrade, so that the message the organizers practically were not sufficiently visible, except in the electronic and print media.⁷³

Hate free zone. Second year in a row that International pride day of LGBT persons was celebrated by action Hate free zone on 27st September in Belgrade. Hate free zone has goal to point out discrimination and violence that some of the minority groups face in Serbia, as well as to empower their mutual cooperation. Actions were organized by Women in Black, Gay lesbian info centre, Association Duga from Sabac, Centre for Queer studies, Novi Sad lesbian organization, Association "Hestia" and Lawyers' Committee for Human rights. The event was attended by over 200 participants, among whom were representatives of institutions, embassies, international organizations, other NGOs, as well as members of the LGBT community, who walked the streets from the central city park Manjež to the Belgrade street. Support for this action "Hate free zone," and congratulations on the occasion of the International Day of pride previously headed by Deputy Prime Minister and Minister of Public Administration and Local Government, the Office for Human and Minority Rights of Serbia, Council of Europe Office in Belgrade, whose head Antje Rothmund was present at the event, EU Delegation in Serbia, OSCE, Embassy of the United States, Great Britain, the Netherlands, Canada, Austria, Croatia etc. Written support for action "Hate free zone" were sent by the LGBT inter-parliamentary group of the European Parliament, as well as Human Rights Campaign from the United States. The participants of the events in the park Manjež were addressed by the Commissioner for Equality Nevena Petrusic. The organizers have chosen to dedicate action, in 2014, to the solidarity of LGBT community with the Roma community and the walk ended with laying flowers at the Belgrade street, the place where a group of skinheads in 1997 killed Roma boy Dušan Jovanović. Walk passed without incident and any inconvenience, it was marked by extremely positive reactions of passersby in the form of waving, photographing and encouraging comments.

Commissioner for Equality in its Annual report noted that it is a great success that after three attempts, the organization of the Pride Parade, organized Pride Week which ended with the Pride Parade in September 2014, with strong security measures. The key positive change that problems faced by LGBT people is more spoken about in public, and the position of the LGBT community is seen as a human rights issue. Although the undisturbed Pride Parade is very important, it appeared that only holding this event is not enough.⁷⁴

Protector of the Citizens an annual report noted that the Government provided a peaceful Pride Parade in Belgrade as well as the necessity to ensure the right of LGBT people to

⁷³ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2014 – Law, practice and international standards of human rights, Belgrade, 2015. p.203.

⁷⁴ Commissioner for Protection of Equality, Annual Commissioner for Protection of Equality for 2014. 2015. p.55
<http://www.ravnopravnost.gov.rs/images/files/Redovan%20godisnji%20izvestaj%20Poverenika%20za%20zastitu%20ravnopravnosti%20za%202014.pdf>

peaceful assembly and the importance of the Pride Parade being held. To which the Protector of the Citizens has pointed out in previous years by his opinions, views and recommendations. Protector of the Citizens by his activities made position of LGBT people more visible, as well as the need for their rights to be realized to a greater extent and better protected.⁷⁵ The Committee for Human and Minority Rights and Gender Equality, the Committee for European Integration of the National Assembly, the Protector of Citizens and the Commissioner for Equality urged the authorities to take proactive measures to ensure increased exercise and better protection of the rights of LGBT people, a more effective judicial protection in cases of violence against LGBT people, their discrimination and hate speech, ensuring the right to assemble freely and safely, education of children in schools and employees of state and other bodies and raising public awareness on the situation of this group of citizens.⁷⁶

The protest walk in support of the assault on a German citizen. In the night between 12th and 13th September 2014 on the Zeleni Venac German citizen DH (27) was attacked and beaten. Also, participant of the international two-day conference "The future belongs to us: LGBT rights on the road to the European Union" was attacked. The conference was held in Belgrade. Labris, one of the organizers of the conference, on 13th September, on the occasion of this attack called an emergency press conference, followed by a protest walk from the Hotel Metropol, where the conference was held, to the building of the Assembly of Serbia. This protest was attended by participants of the conference and representatives of various LGBT organizations and those concerned with human rights, and protest march was also attended by German Ambassador to Serbia. This protest, despite the fact that it is subsequently proved that the attack on the young man was not caused by homophobia, was intended to highlight the problem of violence in society and an appeal for the reduction of violence in Serbia, particularly violence instigated by xenophobia, homophobia, racial and religious hatred. The attack on a German citizen, the participants of the conference, was condemned strongly by the Minister of Interior Nebojsa Stefanovic and the perpetrators of offenses were rapidly identified and arrested.

Walk in Novi Sad. Association LGBT Novi Sad celebrated Valentine's Day, 14th February, with a short walk from the center of Novi Sad rainbow flags and other emblems of the LGBT movement it passed without incident.⁷⁷

Unsolved problem: Threat of violent counter assembly

Although the parade was held, the problem of threats of violent counter assembly is unresolved, keeping that in mind as we established that regular practice leads to the supposedly "non-discriminatory" decision to ban all gatherings⁷⁸, indicating the possibility of further application of this approach when it comes to public events and demonstrations of LGBT activism.

As there are a number constructive views and opinions of international and national actors, they should be stated:

⁷⁵ Op. cit. p. 68.

⁷⁶ Op. cit. p. 77.

⁷⁷ GSA, Annual report on condition of human rights of LGBT people in Serbia 2014., Belgrade, 2015. P.37.
<http://gsa.org.rs/wp-content/uploads/2015/03/GSA-izvestaj-2014.pdf>

⁷⁸ The practice continued in 2015, when all assemblies announced for 11th July 2105. were banned.

"According to Article 11 (1) of the European Convention on Human Rights, the right to freedom of peaceful assembly is guaranteed to everyone who intends to organize peaceful demonstrations. ... possibility violent counter-demonstrations, or the possibility that the violent extremists who are not members of the organization, which organizes the assembly, of joining the demonstration can not as such abolish this right.⁷⁹ Even when there is a real danger that the public moving assembly leads to a riot due to events beyond the control of the organizers, if this moving assembly doesn't stop therefore it falls within the scope of Article 11 (1) of the Convention, but any restriction imposed on assembly must be in accordance with the provisions of paragraph 2 of this Article ".

The UN Special Rapporteur on the right to freedom of peaceful assembly and association emphasizes that the rights of peaceful assembly and association are key for individuals who represent a minority or opposing opinions or beliefs. He therefore calls on the Serbian authorities to take positive measures to ensure the physical and psychological integrity of people who represent a minority or opposing opinions or beliefs and to enable them to exercise the right to freedom of assembly and association. It further recommends that the state avoid to the extent possible, blank ban gatherings. He further emphasizes that States has a positive obligation to ensure and protect the right to peaceful assembly. In the case of competing groups or assemblies that gather, it is recommended to take positive measures to ensure that any tensions between such groups is reduced as much as possible.⁸⁰

According to the OSCE / ODIHR Guidelines, gatherings/assemblies may serve to express the diverse, unpopular or minority opinions.⁸¹ Assembly should be deemed peaceful if its organizers declare peaceful intentions and implementation of assembly are non-violent. The term "peaceful" should be interpreted to include conduct that may annoy or offend, and even conduct that temporarily hinders, delays or prevents the action of third parties.⁸² The right to counter-demonstrate does not apply to a counter assemblies that aim to prevent/ban the right of others to demonstrate.⁸³ In fact, the demonstrators should respect the rights of others to demonstrate as well. The state should make available adequate resources to facilitate the conduct of such related simultaneous meetings, to the extent possible. Any restriction on the assembly shall be made promptly and in writing to the organizer of assembly, explaining reasons for every restriction.⁸⁴ The authorities should always protect and facilitate any spontaneous assembly as long is by its nature of peaceful character. (4 2) In particular, the State has a positive obligation to take reasonable and appropriate measures to enable peaceful assembly without fear of physical violence for participants. The officers must protect participants of a peaceful assembly from any person or group (including agents provocateurs and counter-demonstrators) that are in any way trying to interfere with or prevent the gathering.⁸⁵

⁷⁹ In the judgment in case *Christians against Racism and Fascism against United Kingdom* in European Human Rights Court

⁸⁰ The United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association is a position formally created by UNHRC because of 2011. *Pride ban*.

⁸¹ 1.1 Freedom of peaceful assembly. The ODIHR and Council of Europe's Venice Commission Guidelines on Freedom of Peaceful Assembly <http://www.osce.org/odihr/73405?download=true>

⁸² OSCE / ODIHR Guidelines on freedom of assembly: 1.3 Only peaceful assemblies are protected.

⁸³ Guidelines 4.4 Counter-demonstrations. Counter-demonstrations are a particular form of concurrent (simultaneous) gathering in which participants wish to express their disagreement with the positions that have been voiced at the second gathering.

⁸⁴ Guidelines 2.6 Good Governance. Such decisions should be made as soon as possible so as to appeal to an independent court can be completed before the date set in the notice of assembly.

⁸⁵ Guidelines 5.3 The human-law approach to decision-making in the field of assembly.

The fact that third parties could use peaceful assembly as a cause for violence, does not give the State the right to ban peaceful assembly.⁸⁶ It can never be necessary to ban peaceful assembly whose participants are completely nonviolent, because of threats of violence by others.⁸⁷ Not even by international standards even under the Constitution on peaceful assembly whose participants are completely non-violent but are being threatened with violence by third parties ban can not be justified.⁸⁸ There is no dispute that in society there are extremist, violent groups that oppose this event. This, however, does not justify that the State did not provide conditions to hold an assembly for which participants there is no grounds to believe that they will be violent.⁸⁹ Not even by international standards, even under the Constitution ban on peaceful assembly whose participants are completely non-violent and they are threatened with violence by third parties can not be justified. The State could and should have banned gatherings of those who threaten with violence.⁹⁰ Even if the State, in principle, was allowed (and it is not) to ban a non-violent assembly only because third parties are threatening violence to participants, the state can not resort to such a measures if it is itself responsible for the failure timely to take all appropriate preventive measures to prevent bullies their intention or punish them.⁹¹ The ban of all assemblies in Serbia that particular weekend,⁹² makes state interference in the freedom of assembly of citizens just more disproportionate and could not constitute a justification for a ban on the Parade as non-violent assembly.⁹³ According to the established case law of the European Human Rights Court, "it would be incompatible with the values protected by the Convention if the enjoyment of rights under the Convention by some minority groups may be conditioned by the majority."⁹⁴

⁸⁶ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2012 – Law, practice and international standards of human rights, Belgrade, 2013. p.214. http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/Ljudska_prava_u_Srbiji_2012.pdf

⁸⁷ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2011 – Law, practice and international standards of human rights, Belgrade, 2012. p.34 <http://bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/ljudska-prava-u-srbiji-2011.pdf>

⁸⁸ The Pride Parade is an example of the double violation of freedom of assembly by the state. Firstly, the state had no legitimate basis to ban the assembly, even when it was in time and duly reported.

⁸⁹ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2012 – Law, practice and international standards of human rights, Belgrade, 2013. p.213.

⁹⁰ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2012 – Law, practice and international standards of human rights, Belgrade, 2013. p.213.

⁹¹ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2012 – Law, practice and international standards of human rights, Belgrade, 2013. p.218. http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/Ljudska_prava_u_Srbiji_2012.pdf

⁹² Including the Parade and all other non-violent gatherings whose participants may disagree with Parade happening.

⁹³ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2012 – Law, practice and international standards of human rights, Belgrade, 2013. p.214.

⁹⁴ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2010 – Law, practice and international standards of human rights, Belgrade, 2011. p.167. with reference to the decision in the of European Human Rights Court Barankevich against Russia, ECHR, App. No. 10519/03 (2007). The verdict in the case of Christians against Racism and Fascism v United Kingdom of the European Human Rights Court, "in accordance with Article 11 (1) of the Convention, the right to freedom of peaceful assembly is guaranteed to everyone who intends to organize peaceful demonstrations. ... possibility of violent counter-demonstrations, or the possibility that the violent extremists who are not members of the organization which organizes the assembly will be joining the demonstration can not as such abolish this right Even when there is a real danger that the public moving assembly leads to a riot due to events beyond the control of the organizers, if this moving assembly doesn't stop therefore it falls within the

Sport

Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity⁹⁵ in the chapter "Sport" states that homophobia, transphobia and discrimination on grounds of sexual orientation or gender identity, as well as racism and other forms of discrimination are unacceptable in sport and to fight against them. 40. Sport activities and facilities should be open to all without discrimination on grounds of sexual orientation or gender identity; in particular, effective measures should be taken to prevent, counteract and punish the use of discriminatory insults with reference to sexual orientation or gender identity during and in connection with sports events. 41. Member states should encourage dialogue with and support sports associations and fan clubs in developing awareness-raising activities regarding discrimination against lesbian, gay, bisexual and transgender persons in sport and in condemning manifestations of intolerance towards them.

Sport is one of the key ways of achieving and promoting human rights. Olympics as a philosophy of life that combines culture, education and sport, strives for a peaceful society that seeks to preserve human dignity. Playing sports is treated as a human right. Playing sports should enabled everyone, without distinction or discrimination on any grounds. Discrimination based on sexual orientation and gender identity in sport is unacceptable and incompatible with the national sports policy, it is recognized that in neighbouring Montenegro, in relation to Serbia, they made one step further in combating homophobia in sport.⁹⁶

The situation remains completely unchanged compared to the previous period, because there is still no laws or by-laws, policies and other measures, they do not pay attention to sexual orientation in sports, at sports events and sports spaces. Homophobic and transphobic speech at sporting events are still the most common forms and manifestations of hate speech, which always goes unpunished.

Laws

In terms of legislation, the main legislation regulating sports activities is the Sports Act, the provisions of Article 10 prohibits direct and indirect discrimination in athletes performing sports activities with regard to any personal property including discrimination athletes in terms of employment, wages or working conditions. However, what is obvious is avoiding mentioning of sexual orientation and gender identity, although in today's Serbian society it is

scope of Article 11 (1) of the Convention, but any restriction imposed on assembly must be in accordance with the provisions of paragraph 2 of this Article". Platform "Ärzte für das Leben" v Austria, ECtHR, App. No. 10126/82 (1988). <http://bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/ljudska-prava-u-srbiji-2010-.pdf>

⁹⁵ Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity (which was adopted by Ministers Committee on 31st March 2010 on 1081 session of Deputy Ministers meeting) http://www.coe.int/t/dg4/lgbt/Source/RecCM2010_5_SR.pdf

⁹⁶ Strategy for improvement of the quality of life for LGBT persons in Montenegro for the period 2013-2018. <file:///C:/Users/skynet/Downloads/Strategija%20za%20unaprije%20C4%91enje%20kvaliteta%20C5%BEivota%20LGBT%20osoba%20u%20Crnoj%20Gori%20za%20period%202013%20-%202018.god..pdf>

most often basis of discrimination, and would therefore have to be mentioned and not avoided under the general term of "some personal characteristics". Opposite to that, the Youth Law stipulates the principle of equality and non-discrimination in Article 5, according to which all young people equal. It is clearly prohibited to discriminate or unequally treat young people, directly or indirectly, on any grounds, particularly on the grounds of sexual orientation, gender identity and other real or presumed personal characteristics. As sport has its professional aspects, because many are involved in sports as professionals and to this area is applicable also the Labour Law which prohibits discrimination Article 18 of which stipulates that prohibits direct and indirect discrimination of employees with regard to sexual orientation, while gender identity is not mentioned.

The Draft law on sport should come before the Serbian Parliament in September, parallel to this they are working on drafting a law on privatization in sport, but also in the Ministry of Economy established a working group and is expected to enter the draft text in procedure by the end of the year.⁹⁷ As organizations for LGBT rights were not consulted, nor do they participate in the process, it is uncertain whether it is realistic to expect improvements in terms of combating homophobia in sport.

Public policy

Strategy for prevention and protection from discrimination adopted in 2013⁹⁸ envisaged as one of the specific objectives and the elimination of discrimination against LGBT people in sport (4.4.5.7.): "You need legal provisions against discrimination and removal of LGBT athletes in sports at all levels, because by the existing legal provisions athletes are not adequately protected from discrimination. To ensure that all sporting activities and facilities are accessible without discrimination on grounds of sexual orientation and gender identity, stadiums and other sports venues, cease to be places of mass "allowed" outbursts of homophobia and transphobia as a form of hate speech. "

Action Plan for Implementation of the Strategy for prevention and protection from discrimination in the period 2014 - 2018⁹⁹ provides as one of the objectives of preventable cases of discrimination of vulnerable groups in the area of youth, sport, culture and the media, realizing affirmative action towards certain vulnerable groups in society and strengthen a culture of tolerance through the media towards vulnerable groups. As a measure stipulates to change and amend the Law on sport, which relates to specific measures towards certain vulnerable social groups. Specifically when it comes to LGBT population it is necessary to amend the Law on sport through the introduction of an explicit ban on discrimination in sport on grounds of sexual orientation and gender identity. Action Plan for the implementation of the Strategy for development of sport in the Republic of Serbia for the period 2014-2018 envisages the inclusion of more women in the sport system, marginalized groups and volunteers, but it does not define who falls into the category of marginalized groups. It calls for, in general, to

⁹⁷ Danas, 2015. Sports act in the parliament in September, 10th June. http://www.danas.rs/dodaci/biznis/zakon_o_sportu_pred_poslanicama_u_septembru.27.html?news_id=303267

⁹⁸ Government of Republic of Serbia, Strategy for prevention and protection from discrimination, 2013. <http://www.slglasnik.info/sr/60-10-07-2013/13430-strategija-prevencije-i-zatite-od-diskriminacije.html>

⁹⁹ Action Plan for Implementation of the Strategy for prevention and protection from discrimination in the period 2014 – 2018 http://www.ljudskaprava.gov.rs/images/pdf/propisi_i_strategije/Akcioni_plan_-_srpski.pdf

implement programs and projects in order to promote fair play and tolerance and respect for diversity, and sexual orientation and gender identity are not mentioned.

Homophobia in sport

Homophobia in the world of sports has a long history and it is a problem that is present in the modern age. What has been observed in other areas applies to Serbia too, for example: that athletes, but also coaches will suffer daily discrimination based on sexual orientation. Most are forced to hide their sexual orientation in order not to jeopardize their career. "If you are a female athlete on the team, the coaches have all the cards in their hands and the power to determine your future; and if the coach is homophobic, then you stay hidden deep in the closet."¹⁰⁰ However, the example of Norway, where in football after homophobic insults follows direct exclusion of the player, proving that it is possible to suppress this phenomenon by systemic measures in football.¹⁰¹

The actual situation is such that existence of sexism and homophobia must be noted, openly expressed in sporting environments that are an integral part of sports culture. Especially in football homophobia is deeply entrenched and almost in no stadium or the match with the viewers, of any referee decision, any score or play home or away players, that the dissatisfaction is expressing chanting homophobic insults.

State Secretary for Youth Nenad Borovcanin, on the occasion of Human Rights Day on 10th December 2014¹⁰², in a conversation with young people in Novi Pazar and Raska stressed the importance of respect for diversity and respect for all human rights. "Diversity must not be a question of survival for individuals or groups, whether it comes to the poor and displaced persons, Roma, LGBT, people with developmental disorders and other members of vulnerable groups ... The State is there to protect the human rights of every individual, but also to educate young people that solidarity, tolerance, love and kindness are noblest human qualities. The Serbian Government in partnership with young people builds a free society in which the younger generation will grow up to live in. I sincerely believe that the youth of Serbia can build a tolerant, democratic and advanced society," said Nenad Borovcanin.

Labris initiatives

Labris – organization for lesbian human rights together with GIZ (Die Deutsche Gesellschaft für Internationale Zusammenarbeit) started media campaign "Sports Against Homophobia" which aims to raise awareness about discrimination based on sexual orientation in sport.¹⁰³ About all the activities planned under this project, the public was informed through the media and Labris website, Facebook Sports Against Homophobia and twitter LGBT Sports Serbia.

¹⁰⁰ University of Massachusetts Amherst, 2013, LGBTQ Educator Pat Griffin to Speak on Changing Sports Climate for Athletes and Coaches. 2nd October.
<http://www.umass.edu/newsoffice/article/lgbtq-educator-pat-griffin-speak-umass>

¹⁰¹ MozzartSport, 2015. Homophobia is punished harshly in Norway: Got red carded right away after calling opponent gay?! 11th June. <http://www.mozzartsport.com/vesti/homofobija-se-ostro-kaznjava-u-norveskoj-dobio-direktan-crveni-karton-jer-je-rekao-protivniku-da-je-gej-video/107898>

¹⁰² Ministry of youth and sport, Borovcanin: Lets create free Serbia, 12th October 2014.
<http://www.mos.gov.rs/vesti/omladina/borovcanin-stvaramo-slobodnu-srbiju/?lang=lat>

¹⁰³ Labris, Started campaign: "Sports Against Homophobia", 13th May 2014.
<http://labris.org.rs/zapoceta-kampanja-sportom-protiv-homofobije/>

Facebook account is most active, there is positive news that is usually related to the outed athletes and athletes, of course, at the global level, and other important articles they publish.

At the beginning of 2013 football team was created within the sports groups FemSlam.¹⁰⁴ Training sessions were held once a week, mostly in closed balloons. Football team FemSlam has accommodates up to 12 permanent members and is open to receiving new. FemSlam won in December 2013. against Communal Police¹⁰⁵. FemSlam football team¹⁰⁶ participated, in 2014, the football tournament for women on the occasion of 8th March¹⁰⁷ together with other Belgrade teams. It was the first time that an LGBT sports groups participate in a tournament of this type.

At the beginning of 2014 on the initiative of a member of the community yoga has been launched. A large number of women interested just in this sport activity. Yoga classes are being attend by 15 women, and this sporting activity by FemSlam's is one of the most popular.

One of the aims of the campaign is that sport should be safe and secure place for LGBT people. Statement of famous athletes who are in favour of it. Such is the statement of Ana Ivanovic: "I have nothing against women who opt as lesbians. It's an individual thing, and treat them normally. I have no problem with that, nor look at them differently. I think that's part of life "and Vlade Divac" I personally have a lot of friends, especially in Los Angeles who are gay, so I have no problem, even more so, I support that they simply start with a normal life, because I think that they should fight for their rights" this encourages young LGBT individuals who engage in sports in Serbia. Dusko Vujosevic, who is said to support same-sex marriage, to the question "Would you mind if I have a homosexual on the team? he replied, "If it would not affect the team, I would not. If it does not manifest in the work, does not show on the field, the game, I would not have a problem. "¹⁰⁸The famous basketball player Marko Jaric in an indirect manner called for tolerance and brotherhood that should rule after the crisis: a Serb or a Bosnian, Partizan and Zvezda, gay or straight. Must the flood remind us that without tolerance and unity we can not move forward - wrote Jaric.¹⁰⁹

¹⁰⁴ Labris, Sport-recreational group FemSlam played at "Media tournament women in 5 a side football" 6th March 2014.

<http://labris.org.rs/sportsko-rekreativna-grupa-femslam-prvi-put-na-medijskom-turniru-zena-u-malom-fudbalu/>

¹⁰⁵ Labris, Football: FemSlam team beat Communal Police 2:0, 2nd December 2013. <http://labris.org.rs/fudbal-ekipa-femslam-a-pobedila-komunalnu-policiju-sa-20/>

¹⁰⁶ Labris, Sport-recreational group FemSlam played at "Media tournament women in 5 a side football" 6th March 2014.

<http://labris.org.rs/sportsko-rekreativna-grupa-femslam-prvi-put-na-medijskom-turniru-zena-u-malom-fudbalu/>

¹⁰⁷ On the occasion of 8th March – International Women's day, RTV Studio B organized third media tournament in 5 a side football for women, action is supported by Secretariat for Sports and Youth and Football Association of Serbia.

¹⁰⁸ GayEcho, 2015, Dusko Vujosevic: I support same sex marriages, 12th July. <http://gayecho.com/sport.aspx?id=23506#VaabpF8tddg>

¹⁰⁹ GayEcho, 2014, Marko Jaric: Must the flood remind us of tolerance? 20th May. <http://gayecho.com/sport.aspx?id=19210&grid=14795&page=5#VaafM18tddg>

Independent institutions: Commissioner for Protection of Equality, Ombudsman of the Autonomous Province of Vojvodina, Protector of Citizens, Commissioner for Information of Public Importance and Personal Data Protection, The Constitutional Court¹¹⁰

In terms of national institutions for the protection of human rights Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity¹¹¹ in Title XI of National Institutions for the Protection of Human Rights stipulates that Member States should ensure that national institutions for the protection of human rights are clearly mandated to address discrimination based on sexual orientation or gender identity; they would especially need to be able to make recommendations on legislation and policies, raise public awareness, as well as - to the extent provided for by national laws - consider individual complaints regarding private and public sector and to initiate legal proceedings or to participate in them.

Strategy for prevention and protection from discrimination by the Government of the Republic of Serbia adopted in 2013, provides for the measures, as a measure no. 6¹¹²: "To combat discriminatory practices against LGBT people in all areas, in particular the analysis of specific cases of discrimination against LGBT persons which they face the Commissioner for Protection equality, Protector of Citizens and Ombudsman of the Autonomous Province of Vojvodina, work to eliminate the causes and consequences of those occurrences." But despite the fact that surveys of public opinion show that the LGBT population is one of the most vulnerable and most discriminated social group, its members don't use enough of possibilities of protection through independent institutions for human rights, stated the Ombudsman of the Autonomous Province of Vojvodina.¹¹³ It is in fact only a couple of cases in each institution throughout the period. Independent institutions in the period 2013, 2014 and 2015¹¹⁴ were active in terms of LGBT rights, each acting separately in accordance with its mandate, for example: solving individual cases of violations of the rights of LGBT persons and giving recommendations and opinions to the administrative bodies. Raising public awareness was particularly expressed through the issuance of public statements on the occasion of certain events by organizing or participating in public events with LGBT themes, but also in a very innovative way, through the organization of research on specific topics of importance for the protection against discrimination and other rights of that population. Sometimes they operated together, for example. Commissioner for Equality and the Protector of Citizens have had a very active role in supporting the LGBT community, the Pride Parade and other activities of LGBT organizations, in reactions and condemnation of threats and violations of human rights of LGBT people.¹¹⁵ Commissioner for Equality, Protector of Citizens and the Commissioner for

¹¹⁰ The Constitutional Court was mentioned in the section about public assembly, because it reacted with its decisions in a few cases about restrictions and freedom of LGBT people about other violations of law it had no activity.

¹¹¹ Adopted by Ministers Committee on 31st March 2010 on 1081 session of Deputy Ministers meeting http://www.coe.int/t/dg4/lgbt/Source/RecCM2010_5_SR.pdf

¹¹² Strategy for prevention and protection from discrimination. 4.4.4. Measures

¹¹³ Ombudsman of the Autonomous Province of Vojvodina, stated on 17th May, International Day Against Homophobia, Transphobia and Biphobia: LGTB persons strive to realize their rights <http://www.ombudsmanapv.org/rp/>

¹¹⁴ By the completion of this text, July 2015.

¹¹⁵ Protector of Citizens, Presentation of Annual GSA report on position of human rights of LGBT population in Serbia, 27th March 2015. <http://www.ombudsman.rs/index.php/lang-sr/2011-12-25-10-17-15/3759-2015-03-27-13-42-26>

Information of Public Importance attended the Pride Parade 2014.¹¹⁶ The activities of these institutions have been intensified in 2015, after a successful Pride Parade in 2014.

Commissioner for Equality

2013

Some cases of discrimination of LGBT persons

Cases of refusal to issue a certificate of free marital status¹¹⁷

In accordance with Art.46. p.4 of the Anti-Discrimination Law, Commissioner for Equality on 9th February 2012. the notice of intent conducting situation testing discrimination. It was stated that discrimination testing is planned in 17 Belgrade city municipalities with the aim to determine whether discrimination against the issuing of a certificate of free marital status to same-sex oriented persons wishing to enter into marriage/partnership outside Serbia. On the basis of conducted situation testing of discrimination, a complaint was filed for discriminatory treatment by the services registrar in several municipalities on the basis of sexual orientation, with which the report on the conducted situational testing was attached. It established that the marriage/partnership outside the Republic of Serbia necessary to collect numerous documents, among others, a certificate of free marital status; that the certificate of free marital status issued to persons who wish to enter into a heterosexual marriage without any problems in a very short period of time (few minutes), but getting this certificate is not guaranteed and that there are many obstacles in situations where the certificate required for marriage/partnership with a person of the same sex; reason for denial of issuing this certificate states the unconstitutionality of such a request, or that there is no possibility in Serbia for same-sex marriage; that when testing the registrars refusal to issue a certificate of free marital status when they find out that the issuance of the certificates is in order to enter into a same-sex marriage outside of Serbia; registrars on this occasion stated that same-sex marriages are unconstitutional and that such a certificate can not be obtained in any municipality.

Opinion of Commissioner to Palilula and other municipalities, July, August 2013 Department of Personal situation of citizens and keeping registers and electoral rights of Palilula municipality¹¹⁸ did not issue application form for a certificate of free marital status person who wishes to enter into a same-sex marriage outside Serbia, on the grounds that the certificate can not be issued to persons who wish to get married abroad, which carried out direct discrimination on grounds of sexual orientation is prohibited Art. 6. Anti-Discrimination Law, in relation with Art.21 p.2 and Art. 17.Art. 1 of that Act. Recommendation to issue a certificate of free marital status for all persons who requested the certificate and meet the requirements, regardless of the reason for which the certificate was requested. To take down information from their web

¹¹⁶ GSA, Annual report on condition of human rights of LGBT people in Serbia 2014., Belgrade, 2015.

<http://gsa.org.rs/wp-content/uploads/2015/03/GSA-izvestaj-2014.pdf>

¹¹⁷ Commissioner for Equality, The complaint O. z. I. lj. p. against the Secretariat for Administration City of Belgrade Administration because of discrimination based on sexual orientation in the proceedings before the public authorities, 27th July, 2013.

<http://www.ravnopravnost.gov.rs/sr/seksualna-orijentacija/pritu%C5%BEba-o-z-l-lj-p-protiv-sekretarijata-za-upravu-gu-grada-beograda-zbog-diskriminacije-po-osnovu-seksualne-orijentacije-u>

¹¹⁸ Opinion was sent to Palilula 23rd August 2013, also opinion of the same content was sent to Stari Grad July 27th, 2013, and to Vracar no July 31st 2013.

site, that in order to apply for a certificate of free marital status it is necessary to submit an identification document of the future spouse. To comply with anti-discrimination legislation in the future.

*The opinion and recommendations of the Commissioner about the Recommendation of the Municipality of Cacak addressed to RRDA against the propagation of homosexuality and paedophilia*¹¹⁹

Opinion to the Assembly of the city of Cacak, 20th December 2013, the Assembly of the city of Cacak, at the 16th session held on 29th and 30th May 2013, adopted a recommendation regarding the program contents of stations with national coverage. Because of the danger of systematic enforcement of program content, which most directly affect the condition of the collective spirit of the citizens, sends to Republic Broadcasting Agency strongest protest against all the program content of television with national coverage, which offends morality promotes paedophilia, homosexuality, offends the dignity of the Serbian Orthodox church, other traditional religious communities and adversely affect the formation of values of younger generations. Thus, the same-sex oriented persons were discriminated against by comparison with paedophilia and to be gay in public space does not mean "propagation of homosexuality" but free and legally permissible expression of their sexual orientation. Recommendation of the City of Cacak on 29th and 30th May 2013 which was addressed to the Republic Broadcasting Agency regarding program content TV stations with national frequencies is an act that disturbs, humiliates and insults the dignity of a person of homosexual orientation, so by its adoption discrimination was committed which is forbidden by Art. 12 of the Anti-Discrimination Law. Recommendation of the Commissioner is to remove these recommendations, to publicly apologize to the citizens of Serbia who are homosexual and that in the future take care when passing legal acts and decisions in their jurisdiction must comply with the regulations on the prohibition of discrimination. Assembly of the City of Cacak refused to apologize to the LGBT people, which was the recommendation of the Commissioner for Protection of Equality because they adopted the Declaration insulted them.¹²⁰

2014

Commissioner for Protection of Equality in 2014 on the basis of the Anti-Discrimination Law received 18 complaints from citizens and organizations regarding the discrimination of the LGBT population and issued the 6 opinions, out of which discrimination was found in 4, while other 2 not. Commissioner for Protection of Equality did not initiate cases before the courts in Serbia based on the Anti-Discrimination Law concerning discrimination against the LGBT population.

According to regular surveys conducted by the Office of the Commissioner for Protection of Equality, the LGBT population is the group to which the social distance of the majority of the society is most pronounced. Stereotypes and prejudice against this population are still at a very high level, among which is still the most common prejudice is that LGBT people are sick, it is thought by about 50% of the population.

¹¹⁹ On the complaint of the same content against Kraljevo municipality, the Commissioner has suspended the procedure because it is notified that such a Recommendation was not made in Kraljevo, although the media reported it. 07-00-418 / 2013-02. Date: July 12, 2013

¹²⁰ Labris, Annual report on position of LGBTQ population in Serbia for 2014, Belgrade, 2015. <http://labris.org.rs/wp-content/uploads/2014/07/labris-SRB-WEB.pdf>

2015

Cases

Theatre B

Commissioner for Protection of Equality has determined in February 2015 that the Belgrade theatre "Bosko Buha" discriminated against the gay-focused magazine "Optimist", by denying the magazine press material for the play "Mrs. Minister" with the explanation "for the theatre such advertising would not be appropriate."¹²¹ In the opinion of the Commissioner, in the theatre B.B., placed in an unequal position gay magazine O. compared to other media, and thus committed an act of direct discrimination based on sexual orientation. Therefore, given the view that the theatre B. B. violated the provisions of the Anti-Discrimination Law and theatre B. B. it is recommended to send a written apology to the gay magazine O, as well as to in the future take care that when taking measures under its jurisdiction respect the principle of equality and non-discrimination, that is, to refrain from unjustified distinction or unequal treatment and omission (exclusion, limitation or giving championships), in relation to individuals or groups of persons, based on a personal capacity.

Army of Republic of Serbia and Minister of Defence

On the occasion of complaints against the Army of the Republic of Serbia and the Minister of Defence, Commissioner 3rd April 2015, adopted Opinions and Recommendations.¹²² The Opinion stated that it was established that on the basis of the facts that the provisions of the Anti-Discrimination Law were violated.

Bearing in mind the form and manner of the manifestation of specific acts of discrimination, as well as the general objectives to be realized by implementation of the recommendations, in an effort to recompense the discriminated person, to the extent that this is possible in the present case, adequately provide moral redress, as well as to prevent further discrimination of transsexual and transgender military personnel, the Commissioner makes the following recommendations to the Army the of Serbia General Staff: to send a written apology to MV because of discriminatory attitudes set forth in the document of Human Resources Directorate of the General Staff of the Army of Serbia Pov. no. 3217-3 dated 8th October 2014; to take measures to reduce transphobia, increase tolerance and prevent discrimination against transgender and transsexual and military personnel. Ministry of Defence was recommended to: send a written apology to the MV because of discriminatory attitudes set forth in the order no. 1-422 of 22nd October 2014 on the termination of his professional military service; take measures to reduce transphobia, increase tolerance and prevent discrimination against transsexual and transgender military personnel and persons employed in the Ministry of Defence.

¹²¹ Commissioner for Protection of Equality, Complaint R. and c. against theatre B.B. for discrimination on basis of sexual orientation in area of information, 20th January, 2014. <http://www.ravnopravnost.gov.rs/sr/seksualna-orijentacija/pritu%C5%BEba-r-i-c-protiv-pozori%C5%A1ta-b-b-zbog-diskriminacije-po-osnovu-seksualne-orijentacije-u-oblasti-informisanja>

¹²² Commissioner for Protection of Equality, Complaint UG E against Army of Republic of Serbia and Minister of Defence for discrimination on basis of gender identity in area of employment, 3rd April January, 2015. <http://www.ravnopravnost.gov.rs/sr/druga-li%C4%8Dna-svojstva/pritu%C5%BEba-ug-e-protiv-vrs-i-ministra-odbrane-zbog-diskriminacije-po-osnovu-rodnog-identiteta-u-oblasti-rada>

Statements

On the occasion of the International Day Against Homophobia, the Commissioner in statement issued on 15th May¹²³ noted that in Serbia's discrimination based on sexual orientation is unfortunately part of everyday life for LGBT people and LGBT population is one of the most discriminated groups. Surveys of public opinion show that every second citizen believes that homosexuality is a disease and that it should be treated, and more than 80% do not want LGBT persons in their family. Great social distance, widespread homophobia and transphobia are the expression of negative stereotypes and prejudices about LGBT people. Threats, hate speech and open forms of violence, the most common forms of discrimination against LGBT people. It is therefore extremely important in all spheres of Serbian society to affirm the idea of human rights, gender equality and tolerance and to work hard to combat discrimination on grounds of sexual orientation, as well as on any other personal property.

On the occasion of the International Pride Day, June 26th 2015, Commissioner said in a statement¹²⁴ that in the past year there have been certain steps to improve the position of LGBT population, since the adoption of the strategic document to the Pride Parade. But she cautioned that the research continues to show that they are discriminated against, that social distance is not reduced, and that violence by parents, close relatives and partners of LGBT people is increasing. Therefore, there is a lot of work to do to become a society in which fully respects human rights, and Serbia to become secure environment for all those who have a different sexual orientation.

Commissioner for Protection of Equality took part in the celebration of the International LGBT Pride Day and walking through the centre of Belgrade on 27th June 2015 in the "Hate free Zone," the action which this year was dedicated to anti-fascism.¹²⁵ On this occasion she said "that the representatives of the LGBT community face many different forms of discrimination and society in Serbia has not yet reached a necessary level of openness and tolerance. We need to continue and further raise public awareness, starting from the parents, then the kindergarten, elementary and high school, of course, continue to colleges, work places. Every day we must all be aware of all that we are speaking in public. To learn from each other to learn about the differences and so that those as differences can unite us in the future" said the Commissioner.

Commissioner for Protection of Equality on 9th July 2015, said that the report of Council of Europe Commissioner for Human Rights Nils Muižnieks reflects the real state of affairs in Serbia, when it comes to the issues concerning the elimination of discrimination and

¹²³ Commissioner for Protection of Equality, Statement on the occasion of the International Day Against Homophobia 15th May, 2015.

<http://www.ravnopravnost.gov.rs/sr/saop%C5%A1tenja/saop%C5%A1tenje-povodom-me%C4%91unarodnog-dana-borbe-protiv-homofobije-i-transfobije>

¹²⁴ Commissioner for Protection of Equality, Statement on the occasion the International Pride Day, 26th June 2015. <http://www.ravnopravnost.gov.rs/sr/saop%C5%A1tenja/saop%C5%A1tenje-povodom-me%C4%91unarodnog-dana-ponosa>

¹²⁵ Commissioner for Protection of Equality, Statement on the International Pride Day, 27th June 2015.

<http://www.ravnopravnost.gov.rs/sr/doga%C4%91aji/poverenica-na-obe%C5%BEavanju-me%C4%91unarodnog-dana-ponosa>

respect for human rights.¹²⁶ Commissioner Jankovic believes it is good that the report of the Commissioner of the Council of Europe notes that and notes progress in respecting the rights of LGBT people, and also draws attention to homophobia and discrimination against LGBT persons are still present in Serbia. Commissioner for protection of Equality on 15th July 2015, met with representatives of LGBT organizations and LGBT activists. On that occasion he gave full support to the organizers of the Pride Parade and expressed hope that this 2015 held peacefully and without incidents.¹²⁷

Ombudsman of the Autonomous Province of Vojvodina

2013

Ombudsman of the Autonomous Province of Vojvodina on 26th February 2013. Recommended to the Ministry of Interior training for police officers - one-day seminars on police action towards LGBT people, first in all police stations in AP Vojvodina, and then in other police departments in cooperation with the organization Labris, which was accepted.

Participation in meetings concerning discrimination

Participants of the round table "Strategy against Discrimination", which was held in Zenjanin on 1st February 2013¹²⁸ pointed out that Serbia made certain normative and institutional developments in combating discrimination, but there is, nevertheless, very strong discrimination, especially when it comes to, among others¹²⁹, and LGBT people. The prevalence of discrimination can be explained by the fact that some of the vulnerable groups subject to tough and difficult to eradicate prejudice, among which are LGBT, but also widespread poverty, which in the struggle for scarce social benefits (employment) favours discrimination, then in this value aspect confusion, this delay in development of democracy and human rights, half-reforms, incompetent fragile civic culture, ignorance of regulations, as well as a kind of normative idealism. The human rights obligations of States are not limited only to legislation, but also to their effective implementation and consistent protection of equality of citizens. Dissatisfaction was expressed by Provincial Ombudswoman because they were not included in creation of Strategy.¹³⁰

¹²⁶ Commissioner for Protection of Equality, Statement of the Commissioner about the report of of the Commissioner for Human Rights of the Council of Europe, 9th July 2015.

<http://www.ravnopravnost.gov.rs/sr/saop%C5%A1tenja/saop%C5%A1tenje-poverenice-povodom-izve%C5%A1taja-komesara-saveta-evrope-za-ljudska-prava>

¹²⁷ Commissioner for Protection of Equality, Meeting with representatives of LGBT organizations, 15th July 2015. <http://www.ravnopravnost.gov.rs/sr/doga%C4%91aji/sastanak-poverenice-i-predstavnika-lgbt-organizacija>

¹²⁸ Commissioner for Protection of Equality, Round table in Zenjanin "Strategy against Discrimination", 1st February 2013. <http://www.ombudsmanapv.org/riv/index.php/vesti/ostale-vesti/913-okrugli-sto-u-zrenjaninu-strategijom-protiv-diskriminacije.html>

¹²⁹ It is explicitly stated national minority, women, persons with disability, LGBT persons, religious communities and churches, refugees, migrant communities, as well as other vulnerable minority groups.

¹³⁰ "We are not in the working text of the strategy, and our work, we have researches that werealized and experience we have gained in the protection of human rights can be of great help in writing the strategy. If we're not even in its creation, even in the realization of activities, then we have nothing to look at in this round table," said Muškinja Heinrich.

In The Assembly of the Autonomous Province of Vojvodina¹³¹ on 18th December 2013, was held a round table on the Model Law on gender identity, which regulates the rights and obligations of trans people. The round table was attended by the provincial deputies, representatives of provincial authorities and civil society organizations. In his speech, Deputy Todorov drew attention to the fact that very little complaints were made to the institution of Ombudsman of the Autonomous Province of Vojvodina about human rights violations based on sexual orientation and gender identity, but that the cases encountered by these institutions indicate that employees in Government do not always act in accordance with the law, but from the perspective of their own prejudices. This statement illustrates for example of not issuing a certificate of free marital status, because LGBT people requesting it must state the purpose - for the registration of same-sex communities abroad. Registrars are adhered to the old pattern, although it was going to issue a birth certificate with a note of free marital status. Another example is very similar - it is about issuing new diplomas after gender reassignment due to the change of names and surnames. Higher education institutions were of the opinion that it is not necessary to comply with this request, because no legal obligation exists. In this way, this institution has conducted indirect discrimination. In both cases there was no legal impediment to exercise the rights of LGBT people, but their rights have been violated because of the views of employees in the administration or in an educational institution. Experience of the Ombudsman of the Autonomous Province of Vojvodina confirms that it is very important to legislate on questions of gender identity, although the enactment of laws does not mean that problems will be effectively addressed. In addition to a special law being necessary to change other laws, for example, about health insurance, health care, civil registries and others. Partial implementation of the Law on Gender Equality confirms that those who have to implement it do so, because there is a misunderstanding of its purpose and the obligations that derive from it, and there has always been a need for advocacy, training, giving instructions to the Administration, which should be expected in the case of laws that regulates issues of gender identity.

2014

Deputy for Gender Equality of Autonomous Province of Vojvodina participated conference entitled "Situation of human rights of people living with HIV/AIDS" on June 26th 2014, within the project "Change is in us - Zero tolerance for discrimination against people suffering from HIV" organizers of the citizens' Association Red Line (Novi Sad) and the Union organization of Serbia for the protection of persons living with HIV/AIDS (USOP), with support from the Office for Human and Minority rights of the Government of Republic of Serbia.

Statements

Ombudsman of the Autonomous Province of Vojvodina - Ombudsman 9th July 2014 supported the action "Hate Free Zone", which was held on 27th June Pride Day by civil society organizations in order to highlight the intolerance towards the LGBT community, but also for the other vulnerable groups.¹³² On that occasion, the Provincial Ombudsman indicated that the LGBT

¹³¹ Ombudsman of the Autonomous Province of Vojvodina, Round table about Model of gender identity Law, 20th December, 2013. <http://www.ombudsmanapv.org/riv/index.php/vesti/ostale-vesti/1218-odrzan-okrugli-sto-o-modelu-zakona-o-rodnom-identitetu.html>

¹³² Ombudsman of the Autonomous Province of Vojvodina, Statement: cases of discrimination, hate speech and violence toward the LGBT population are not processed the right way, 9th July, 2014. <http://www.ombudsmanapv.org/riv/index.php/vesti/saopstenja/1372-slu%C4%8Dajevi-diskriminacije.-govora-mr%C5%BEnje-i-nasilja-prema-lgbt-osobama-se-ne-procesuiraju-na-odgovaraju%C4%87ina%C4%8Din.html>

population is classified as the most vulnerable social group and they face marginalization, discrimination, hate speech, harassment, threats and homophobic violence every day, which increases with their increasing visibility. Cases of discrimination, hate speech and violence against LGBT people generally are not being processed appropriately. In doing so, the police, prosecution and courts show noticeable slowness and inefficiency in dealing with cases of violence against LGBT persons, who are often subject to discrimination and harassment in the workplace, where employers do not take measures to protect them and to prevent discrimination, and the specific situation of the LGBT population is reflected the fact that it is the only social group which is denied the right to public assembly, despite constitutional guarantees of freedom of assembly.

2015

Deputy Ombudsman for gender equality participated on assemblies devoted to presenting public policy in the field of protecting the rights and improving the quality of life for LGBT people in April 2015.

Statement

On the occasion of International Day Against Homophobia, Transphobia and Biphobia the Provincial Ombudsman on 15th May 2015¹³³ said that the level of homophobia and transphobia is extremely high in Serbia. All studies confirm that almost two thirds of citizens believe that homosexuality is a disease, more than half think that it is a great danger for society, and about 60% of citizens do not agree with the statement that homosexuals are a group that suffers the violation of basic human rights, including the right to life, physical and psycho-social integrity, legal protection, freedom of assembly, health care and education. Despite what public opinion polls show that the LGBT population is one of the most vulnerable and most discriminated social groups, its members underuse the possibility of protection through independent institutions for the protection of human rights. On that occasion, the Provincial Ombudsman pointed to the examples of discrimination against these persons and widespread institutional discrimination on the basis of personal characteristics or practices that infringe the principle of equality and equal treatment.

Cases

Ombudsman of the Autonomous Province of Vojvodina during an investigation in one case found that the registrar did not act according to the law when it refused to issue a certificate of free marital status because the citizen has cited that this certificate was necessary to enter into same-sex union abroad. Research in local Governments encouraged by complaint of LGBT person has shown that the practice of the office clerks in Vojvodina is different, even though the issuance of a certificate in the prescribed form is legally regulated, recommendations were issued on the need for consistent compliance with legal provisions.

¹³³ Ombudsman of the Autonomous Province of Vojvodina, On the occasion of 17th May International Day Against Homophobia, Transphobia and Biphobia: LGBT persons strive to realize their rights, 15th May 2015.
<http://www.ombudsmanapv.org/riv/index.php/vesti/saopstenja/1583-povodom-17-maja,-me%C4%91unarodnog-dana-protiv-homofobije-i-transfobije-lgbt-osobe-te%C5%BEE-ostvaruju-svoja-prava.html>

In the second case transgender person, who is going through a process of sex reassessment, was discriminated against. The higher education institution where this person has studied did not want to change the name on the diploma on the grounds that such an obligation is not prescribed by the Law on Higher Education and recommended her to, when applying for a job to bring degree and attach a birth certificate in which change of names was made. Because the law does not prohibit changing the name on the diploma, denial of these opportunities leads to discrimination and it was recommended to the higher education institution to grant the requests to transgender people, keeping in mind the recommendation of the Commissioner for protection of Equality to the competent administrative authorities and higher education institutions to grant requests to transgender people, because the process sex change may last for a relatively long time, and they should enable the change of the name in all documents in which it appears.

These examples indicate that the LGBT population does not enjoy fully their human rights, although discrimination based on sexual orientation and gender identity is prohibited by law. In a society that difficultly accepts diversity, treatment of LGBT people on the basis of prejudice and stereotypes often is reflected in the actions of institutions. In such cases, discrimination threatens to become systemic, and that violation or preventing the realization of the rights of the citizens become the rule and norm, not the exception, which is reprehensible.

Protector of Citizens

Protector of Citizens points out the existence of stereotypes and prejudices against LGBT persons in its regular annual reports in the Report, LGBT population in Serbia - the state of human rights and social status", referring to the competent authorities the recommendations how to improve their position. Joint Working Group of the Protector of Citizens and the Commissioner for Equality submitted to the competent authorities, in 2014, a series of recommendations, indicating the necessity of regulating the legal status of trans people.

2013

In the hearing held on 23rd April 2013, which was organized on the occasion of the Model Law on registered same-sex partnerships¹³⁴, by the Office for Human and Minority Rights and the Office for Cooperation with Civil Society of the Republic of Serbia, Deputy Protector of Citizens stated that registered same-sex unions, might be a difficult question for Serbia today, but there were some other difficult issues in the past. It is important that a large number of Serbian LGBT citizens have their rights guaranteed in the area of family relations. Members of the LGBT community are not second-class citizens and the state should guarantee them a certain level of rights that is accepted in a large number of modern democratic societies. In the meeting on discriminatory attitudes of high school students held on 3rd July 2013, Deputy Protector of Citizens said that the Ministry of Education failed to fix things when they did not accept the proposal of the Protector of Citizens that in the recent amendments to the Law on the Basic of the Education System, to explicitly specify sexual orientation as a basis discrimination in educational institutions, as well as when they suggested that the goals of education erase the word "respect for diversity".¹³⁵

¹³⁴ Protector of Citizens, Participation of Deputy Protector of Citizens in hearing on the Model Law on registered same-sex partnerships, 23rd April 2013. http://www.ombudsman.rodinaravnopravnost.rs/index.php?option=com_content&view=article&id=43%3A2013-04-23-14-26-12&catid=2%3A2012-10-05-09-11-58&Itemid=7&lang=sr

¹³⁵ Protector of Citizens, High school students support LGBT discrimination, 3rd July 2013, http://www.ombudsman.rodinaravnopravnost.rs/index.php?option=com_content&view=article&id=55%3A2013-07-03-14-17-10&catid=2%3A2012-10-05-09-11-58&Itemid=7&lang=sr

The recommendations of the Joint Working Group of the Commissioner for Equality and the Protector of Citizens were presented on 1st July 2013. The group was formed in order to analyze the current context, the regulations relevant to the legal position transgendered persons. The result of the Working Group are individual analytical texts, as well as a joint document titled: "The recommendations of a joint working group of the Commissioner for Equality and the Protector of Citizens to amend the regulations relevant to the legal position transgendered person".¹³⁶

In the annual report of the Protector of Citizens for 2013¹³⁷ it is stated that in the field of gender equality and the rights of LGBT 147 complaints were received, but gender equality and the rights of LGBT people are not separately presented. The most important recommendations, opinions and legislative initiatives of the Protector of Citizens in 2012, according to which even in 2013 were not taken are¹³⁸: the Ministry of Education, Science and Technological Development of the amendment to the Law on the Basic of the Education System in the Republic of Serbia, by entering an explicit provision on the prohibition of discrimination on the basis of sexual orientation; the Ministry of Education, Science and Technological Development in the curricula of primary and secondary schools, and then in the text of the textbooks, enter contests which will be acceptable, but competently cover all the important issues relating to LGBT rights; that the adoption of new or amendments to existing laws improve protection of the rights of transgender person. The same recommendations were repeated in 2015 (because they were left unfulfilled in previous years) in opinion on the Draft Law on textbooks.¹³⁹

Characteristic case

School failed to protect gay student from abuse and neglect.¹⁴⁰ It was determined that the school failed to take measures stipulated by the law and bylaw to protect students from violence because of their different sexual orientation, recommendations were sent to schools. The school is, by following the recommendations, in cooperation with the competent school administration analyzed the work in this case, prepared the Action Plan for the prevention of violence in schools with particular attention to violence prevention and reduction of intolerance towards people of different sexual orientation, implemented accountability procedures employed in the school, a school principal in writing apologized to the student for the failure of the school to provide him with uninterrupted education in a safe environment.

¹³⁶ Protector of Citizens, The recommendations of the Joint Working Group of the Commissioner for Equality and the Protector of Citizens to amend the regulations relevant to the legal position transgendered person, 1st July 2013. http://www.ombudsman.rodnaravnopravnost.rs/index.php?option=com_content&view=article&id=54%3A2013-07-01-10-33-48&catid=2%3A2012-10-05-09-11-58&Itemid=7&lang=sr

¹³⁷ Protector of Citizens, Annual report of the Protector of Citizens for 2013, Belgrade, 2014. p.54. http://www.ombudsman.rs/attachments/3237_Godisnji%20izvestaj%20Zastnika%20gradjana%20za%202013%20%20godinu.pdf

¹³⁸ op.cit.p.55

¹³⁹ Protector of Citizens, The opinion of the Protector of Citizens on the Draft Law on textbooks, 25th March 2015. <http://www.ombudsman.rs/index.php/lang-sr/2011-12-11-11-34-45/3756-2015-03-26-08-07-55>

¹⁴⁰ op.cit. p.62. IV Characteristic case

2014

In the annual report of the Protector of for 2014¹⁴¹ states that in the area of (gender equality and the rights of LGBT persons) received 132 complaints in which the applicants pointed to the 180 infringements. Because these two areas are not presented separately is not possible to identify which problems relate to complaints on LGBT rights.

The Protector of Citizens and the Commissioner for Equality¹⁴² on 15th May 2014 at the working meeting with representatives of public authorities presented the findings and recommendations of a joint working group which analyzed the regulations of importance for the legal status of transgender persons. The main objective is to contribute to solving the problems faced by transgender persons and transsexual persons and that these problems made visible. The meeting was attended by representatives of the Ministry of Interior, Ministry of Public Administration and Local Government, the Ministry of Labour, Employment, and Social Issues, Ministry of Education, Science and Technological Development, the Ministry of Health, Republic Health Insurance Fund, the Commissioner for Information of Public Importance and the protection of personal data, the Office for Human and Minority rights of the Republic of Serbia and the Council for Gender Equality of the Protector of Citizens.

A student of the Faculty of Political Sciences Stefan Sparavalo was awarded on 23rd July 2014 by the Protector for the best essays on human rights¹⁴³, for the work "We are 10%" in which he wrote about the problems of the LGBT population in Serbia. "I didn't use legal terms and laws, I wanted to show by narration and convey how LGBT peoples' life is threatened in Serbia," said Sparavalo. When awarding prizes the Protector of Citizens Sasa Jankovic said that everyone belongs to a minority, and that in a crisis the most vulnerable suffer.

2015

In the beginning of 2015 the results of research "The perception of the public in relation to the rights of vulnerable groups in the Republic of Serbia and the knowledge and competence perception of the Protector of Citizens" were presented in the publication.¹⁴⁴ The greatest distance towards all the groups in this study is expressed towards the LGBT and HIV-positive

¹⁴¹ Protector of Citizens, Annual report of the Protector of Citizens for 2014, Belgrade, 2015. p.67. http://www.ombudsman.rs/attachments/3733_Godisnji%20izvestaj%20Zastitnika%20gradjana%20za%202014.pdf In the same period, put an end to a total of 121 cases received in 2014 and earlier years. From a total of 26 procedures were conducted, 16 (61.54%) procedures were completed by referring the recommendations in the summary control procedure. In other cases, the Protector of Citizens conducted a verification procedure and instructed the 10 recommendations, one of which was accepted 7 (70%), not done in 3 (30%), and the deadline for the execution of 0. Based on the number of established (26) and deletion (23) omission, efficiency in this area is 88.46%.

¹⁴² Protector of Citizens, On position of transgendered and transsexual persons 15th May 2014. http://www.ombudsman.rodmaravnopravnost.rs/index.php?option=com_content&view=article&id=98%3A2014-05-23-07-34-49&catid=2%3A2012-10-05-09-11-58&Itemid=7&lang=sr

¹⁴³ Protector of Citizens, Protector awarded best essays on human rights, 23rd July 2014. http://www.ombudsman.rodmaravnopravnost.rs/index.php?option=com_content&view=article&id=105%3A2014-07-23-12-48-30&catid=2%3A2012-10-05-09-11-58&Itemid=7&lang=sr

¹⁴⁴ Protector of Citizens, The perception of the public in relation to the rights of vulnerable groups in the Republic of Serbia and the knowledge and competence perception of the Protector of Citizens, 2nd ed, Sluzbeni Glasnik, Belgrade 2015. http://www.ombudsman.rs/attachments/4174_Percepcija%20javnosti%20-%20ZG%202015.pdf

people.¹⁴⁵ The results showed that the LGBT population there is a general negative attitude. He even deepened in comparison to a year and a half ago. The citizens' attitudes towards vulnerable groups in Serbia, give an indication that the minimum volume of rights and further recognizes the LGBT population followed by the detainees/prisoners and ethnic minorities. Opinions about the LGBT population, there is large number of those who believe that this group has too many rights and that they should be restricted is concentrated the largest.¹⁴⁶

The cooperation and coordinated use of affirmative action is needed, is a stance articulated by the Protector of citizens on 3rd February 2015¹⁴⁷ in a round table in Belgrade Media Center, titled "Why the mutual cooperation is essential in the formulation of policies of non-discrimination in employment on the territory of Serbia, the region and the EU?", organized by the NGO Labris and Gayten LGBT and ŠKUC from Slovenia. Weak implementation of anti-discrimination measures and the lack of integrated approach are the main reasons why vulnerable social groups suffer discrimination in employment of which LGBT people are among the most vulnerable.

On 24th March 2015 Protector of Citizens gave an opinion on the Draft Law on textbooks¹⁴⁸ from the standpoint of the competence of this body and guided by the principle of cooperation between state organs. The Protector of citizens finds that the Draft law represents a significant advancement in the field of vocational assessment content, approval and marketing of textbooks in use. At the same time, to improve solutions contained in the draft, the Ombudsman points out the need to further examine certain provisions and specifies: It is necessary that the provisions of Article 12 of the Draft Law on textbooks be Amended and that the grounds of discrimination set out in paragraph 2 of this Article explicitly enter and sexual orientation. Although it may include the term "and on other grounds stipulated by the law governing the prohibition of discrimination", it is necessary explicitly to state sexual orientation as grounds for discrimination, especially considering the studies that point to widespread negative attitudes among high school students towards people of different sexual orientation. Finding that an explicit ban is strongly demotivating, but also an educational tool for the protection against discrimination, violence and social exclusion of children and people of different sexual orientation, in its annual reports (including the Annual Report for 2014) Protector of Citizens pointed out that the Ministry education, Science and Technological Development to propose amendments to the Law on the Basic of the Education System so that the Act introduces provisions for an explicit prohibition of discrimination on grounds of sexual orientation and gender identity.

On the building of the Protector of Citizens¹⁴⁹, on the occasion of the International Day against Homophobia, Biphobia and Transphobia (IDAHO/T) on Sunday, 17th May 2014 rainbow, flag was set, by which people of different sexual orientation and gender identity, symbolically received support and pointed to the problems that these people face.

¹⁴⁵ Perception, op.cit. p.41

¹⁴⁶ Perception, op.cit. p.66-67.

¹⁴⁷ Protector of citizens, The cooperation and concerted use of affirmative action, 3rd February 2015. <http://www.ombudsman.rs/index.php/lang-sr/2011-12-25-10-17-15/3686-2015-02-03-08-35-54>

¹⁴⁸ Protector of Citizens, Protector of citizens opinion on the Draft Law on textbooks, 24th March 2015 <http://www.ombudsman.rs/index.php/lang-sr/2011-12-11-11-34-45/3756-2015-03-26-08-07-55>

¹⁴⁹ Protector of Citizens, The International Day against Homophobia, Biphobia and Transphobia was celebrated, 17th May 2014. <http://www.ombudsman.rs/index.php/lang-sr/2011-12-25-10-17-15/3852-2015-05-16-20-20-02>

Recalling the important and positive progress, Pride Parade and the inclusion of LGBTI organizations in the development of strategic documents, Pride Day which was held, the Protector of Citizens on 27th June 2015¹⁵⁰ indicated that the LGBT population in Serbia is not sufficiently protected, and recalls the obligation of public authorities to continuously work to protect the rights of minority groups. Surveys of public opinion show that there is a general negative attitude towards the LGBT population, and that this group is viewed with a negative bias. The legal position of trans people not regulated, Joint Task Force Ombudsman and the Commissioner for Protection of Equality, pointed out to the competent authorities in 2014 and submitted a series of recommendations.

Commissioner for Information of Public Importance and Personal Data Protection

2013

Cases

Commissioner for Information of Public Importance and Personal Data Protection, ex officio, on 13th August 2013 initiated, the process of supervision¹⁵¹ over the implementation of laws by the Ministry of Interior of the Republic of Serbia, following the news that from 10.08.2003. onwards, published over the electronic media on their web sites. Namely, they stated that the source of the RS Ministry of Interior received information that during the police action in the vicinity of Bor, operatives of the Criminal Police recorded a sex act two senior local politician from the Serbian Progressive Party and the Socialist Party of Serbia, whose names were reportedly known to the editors media. Commissioner took the view that the processing of data about sexual life without the consent of the person intolerable.

Commissioner for Information of Public Importance and Personal Data Protection issued on 9th September 2013 decision which overturned the decision of the Ministry of Interior not to submit a safety assessment (in 2011) to the organizers of Belgrade Pride¹⁵². The Commissioner stressed in its decision that there is no reason for these documents to be marked "top secret". After that, the Ministry of Interior submitted to the Organizing Committee of Belgrade Pride as requested an assessment from 2011, but has not submitted a similar assessment as requested by the Youth Initiative for Human Rights. In the requests of Belgrade Pride 2014 to authorities in Serbia, there was a requirement that the Ministry of Interior make public all security assessments and inform the public, who are the persons and groups that have been preparing riots.

¹⁵⁰ Protector of Citizens, Statement 27th June 2015. Public authorities are obliged to protect the rights of minority groups, 27th June, 2015. <http://www.ombudsman.rs/index.php/lang-sr/2011-12-25-10-17-15/4191-2015-06-25-12-52-03>

¹⁵¹ Commissioner for Information of Public Importance and Personal Data Protection, Analysis of data on sex life without the person's consent is intolerable, 13th August 2013. <http://www.poverenik.rs/yu/saopštenja-i-aktuelnosti/1654-obrada-podataka-o-seksualnom-zivotu-bez-pristanaka-lica-je-nedopustiva.html>

¹⁵² Pride Parade, Requirements of organisers of Belgrade pride 2014. to the authorities in Serbia, 2014. <http://parada.rs/zahtevi-bgd-prajda/>

2014

Statement

Commissioner for Information of Public Importance and Personal Data Protection has received 11th September 2014 representatives of the Organizing Committee of the Pride's (Pride Parade in Belgrade in 2014).¹⁵³ They informed him about the activities on the preparation of the event, stressing the desire of the organizers that it passes without any incidents and the need for national authorities to provide the necessary conditions for the exercise of the constitutionally guaranteed freedom of assembly. Commissioner assured representatives of the Organizing Committee that the rights established by laws which it protects, in relation to the organization of the event, and in view of the LGBT community in general, will be exercised as well as rights all citizens, without discrimination and expressed his expectations that all state organs within their competence, will act the same way.

The Constitutional Court

About Pride Parade ban

The Constitutional Court's decision, in 2013, rejecting the appeal of the ban on Pride Parade¹⁵⁴ finding that persons that submitted complaint, and that representatives of the "Belgrade Pride" and would be the participants of the assembly he it been held, were not properly Identified in the process, but it was only association "Belgrade Pride" as a legal person who reported the assembly. Belgrade Centre for Human Rights has criticized this understanding of the Constitutional Court¹⁵⁵ with reference to the European Human Rights Court under Article 11 of the European Convention on which legal standing, or status as a victim of violations of freedom of assembly, have individuals who participated in the assembly, or would have if it was held.¹⁵⁶ And by ODIHR Guidelines on freedom of peaceful assembly, it is provided that not only the organizers of public gatherings but also those whose rights and freedoms will be directly affected by the assembly should have the opportunity for oral and written appeal directly to the regulatory body.¹⁵⁷

On the Law on Public Assembly

Serbian Constitutional Court declared unconstitutional current Law on Public Assembly the session held on 9th April 2015 and put the explanation of the decision for six months. The question of the constitutionality of the Constitutional Court started nearly two years ago, and because of shortcomings in the law regarding: 1. envisaged legal remedies, 2. provisions concerning the "appropriateness" of space for public assembly, and 3. list of consents and approvals organizers assembly must supply so that their assembly was approved.¹⁵⁸

¹⁵³ Commissioner for Information of Public Importance and Personal Data Protection, Report on the Implementation of the Law on Free Access to Information of Public Importance and Law on Personal Data Protection for 2014, Belgrade, 2015. <http://www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2015/latg.izvestaj2014.pdf>

¹⁵⁴ Decision Uz 8463/2012 form 9th July. The preliminary ruling of 2012 established that the decision of the Police Directorate of 19th September 2009 violated the constitutional rights of the complainant to freedom of assembly and the right to a remedy guaranteed by the Constitution of Serbia.

¹⁵⁵ Belgrade Centre for Human Rights in Serbia, Report – Human Rights in Serbia 2013 – Law, practice and international standards of human rights, Belgrade, 2014. p.202.

¹⁵⁶ Op.cit. p.202.

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