



# BEING LGBTI IN EASTERN EUROPE

**Reducing Inequalities & Exclusion, and Combating Homophobia & Transphobia Experienced by LGBTI People in Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, and Serbia**

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**Being LGBTI in Eastern Europe: Reducing Inequalities & Exclusion, and Combating Homophobia & Transphobia Experienced by LGBTI People in Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, and Serbia**

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A handwritten signature in black ink that reads "M. Dhaliwal". The signature is written in a cursive, slightly slanted style.

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## Acronyms and abbreviations

BPPS	Bureau for Policy and Programme Support (UNDP)
CIS	Commonwealth of Independent States
CO	Country office
CV	Curriculum vitae
ECOM	Eurasian Coalition on Male Health
ERA	Equal Rights Association
EU	European Union
fYROM	the former Yugoslav Republic of Macedonia
HHD	HIV, Health and Development (Team, UNDP)
IRH	Istanbul Regional Hub (UNDP)
LGBT	Lesbian, gay, bisexual and transgender
LGBTI	Lesbian, gay, bisexual, transgender and intersex
LoP	List of Participants
MDGs	Millennium Development Goals
MoU	Memorandum of Understanding
NGO	Non-governmental organization
NSA	Non-state actors
	Swedish Federation for Lesbian, Gay, Bisexual and
RFSL	Transgender Rights
SDGs	Sustainable Development Goals
	Swedish International Development Cooperation
Sida	Agency
ToR	Terms of Reference
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNHRC	United Nations Human Rights Council
UNDP	United Nations Development Programme
USAID	United States Agency for International Development

## Executive summary

Despite certain improvements in the recent past, the situation of lesbian, gay, bisexual, transgender and intersex (LGBTI) people in Eastern Europe remains problematic. Due to punitive laws and policies, stigma, discrimination and violence, as well as insufficient enabling regulatory frameworks, the rights of LGBTI people are not fully respected, protected, and fulfilled. In some countries enabling laws are adopted, but not fully implemented. Violations of civil and political, as well as economic, social and cultural rights continue. The situation of civil society organizations that foster LGBTI rights in Eastern Europe is also alarming, due to capacity and funding constraints and insufficient opportunities for dialogue with decision-making authorities at national levels, as well as shrinking legal, policy and participatory space for civil society engagement.

Policy actors such as the United States of America and the European Union are now addressing inequalities caused by sexual orientation and gender identity; they have made LGBTI rights an important policy priority. The United Nations have reaffirmed their position that violence and discrimination against LGBTI people must end. A window of opportunity to promote LGBTI rights has emerged as countries in Eastern Europe take steps to adopt anti-discrimination legislation and establish human rights institutions and mechanisms in their efforts to join the European Union.

The United Nations Development Programme (UNDP) is proposing a one-year project for Eastern Europe, with specific focus on Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, and Serbia that has been designed to contribute to the reduction of inequalities and exclusion experienced by LGBTI people, by combating homophobia and transphobia. The proposed project aims to strengthen the evidence base, develop advocacy approaches and instruments in national languages, and convene dialogues that bring together national decision makers from the executive, legislative and judiciary branches with LGBTI civil society organizations, their allies and other stakeholders. The project ultimately aims to reduce inequalities and exclusion experienced by LGBTI people. The proposed project draws on UNDP's experience in designing and implementing the regional initiative: "Being LGBT in Asia".

The proposed project duration is from January 2016 to January 2017 and requires US\$ 499,856 in funding for the four countries, and for sub-regional activities also including Kosovo<sup>1</sup> and Montenegro. The project is designed in a way that it can easily be extended for an additional period and/or further expanded in the region, also beyond the Western Balkans, should additional funds be made available.

The main project implementer will be UNDP, through the Istanbul Regional Hub and country offices in the four project countries, with involvement of the Bureau for Policy and Programme Support (BPPS – New York). The Bangkok Regional Hub will provide advisory support,

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<sup>1</sup> As per UN Security Council Resolution 1244

drawing on its recent experience in implementing Being LGBTI in Asia. Civil society organizations, at regional and country levels will be key partners in project implementation.

## Overview and context

### Problem statement

The capacity of LGBTI civil society organizations in Eastern European countries runs the gamut from strong and established, to weak and nascent, from those actively engaged with other sectors, including private sector, to those limited in their linkages to others. However, even strong LGBTI organizations in Eastern Europe often lack opportunities to forge alliances and collaborate with like-minded LGBTI or ally organizations to increase capacity, promote inclusion, or advance advocacy for LGBTI rights and inclusion. Interactions with government officials and decision-makers are sometimes challenging. LGBTI data, research and analysis remains scant at best.

Many Eastern European governments lack capacity, knowledge and often willingness to develop and implement policies to support LGBTI rights and inclusion. Although State institutions are increasingly being called upon to address human rights of LGBTI people, it is not yet widely understood that violence and discrimination against LGBTI people and anti-LGBTI policies and practices present impediments for sustainable development. Therefore, while some Eastern European countries have adopted anti-discrimination laws that include sexual orientation and gender identity as prohibited grounds of discrimination as required for EU membership, in many of these countries, government officials continue to voice discriminatory or exclusionary individual opinions rather than promoting anti-discrimination legislation.<sup>2</sup> Therefore, there are ongoing challenges in ensuring the implementation and effective oversight of recently adopted anti-discrimination laws specifically and the enforcement of human rights standards generally.

LGBTI civil society organizations face multiple challenges, often compounded by an inability to be heard by their governments. In addition, there is no connection between the few leading LGBTI champions in the urban areas and the broader LGBTI population, especially those living in rural areas, who are not represented by the advocates/champions. There is a great need to strengthen LGBTI civil society groups as well as the diversity of organizations; for example organizations that support young LGBTI persons, friends and families of LGBTI individuals, as well as, where applicable, faith-based organizations. Even though there are a substantial number of LGBTI NGOs in some Eastern European countries, many are small and consist of a few prominent figures.

United Nations' engagement can facilitate important official and unofficial channels of communication between civil society, state actors and institutions and the private sector.

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<sup>2</sup> Testing the Waters: LGBT People in Eastern Europe and Eurasia, USAID, available at <http://www.usaid.gov/sites/default/files/documents/2496/USAID%20Testing%20Waters%20Report%20on%20LGBT%20Europe%20and%20Eurasia.pdf>

Drawing on UNDP's country and regional presence in 170 countries and partnerships across development sectors, much can be achieved in support of LGBTI visibility and leadership, as well as civil society networking, capacity building and advocacy to advance LGBTI inclusion.

## The proposed project

UNDP has developed a project entitled **“Being LGBTI in Eastern Europe: Reducing Inequalities & Exclusion, and Combating Homophobia & Transphobia Experienced by LGBTI People”** to examine the experience of LGBTI people in four select Eastern European countries: **Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, and Serbia**. The choice of project countries is described in the section entitled [“Rationale for country selection”](#) (page 10). Kosovo and Montenegro will also benefit from the sub-regional activities and resources provided under this project. This proposed project will simultaneously speak to the LGBTI issues in the region from a human rights and development perspective, as well as contextualize the issues against the backdrop of civil society capacity development, community mobilization and government competence - including, but not limited to, the right to health and well-being, all in the context of development. The proposed project will rely on the framework outlined in USAID's *Toolkit for Integrating LGBT Rights Activities into Programming in the Europe & Eurasia Region*<sup>3</sup> to develop the proposed project's programs and operations.

The proposed project will build on the knowledge, experience and expertise from the groundbreaking UNDP project: “Being LGBT in Asia” which was supported by USAID.<sup>4,5,6</sup> For instance, UNDP will utilize the experience and good practices from this project to engage national as well as regional institutions, help generate partnerships, as well as foster the capacity development of civil society.

The project will also leverage recent advances made within the UN system to combat homophobia and transphobia and end discrimination based on sexual orientation and gender identity. These include the UN Human Rights Council (UNHRC) resolution on discrimination and sexual orientation, the report of the UN High Commissioner for Human Rights on laws and practices of violence against LGBTI people, the 2014 UNHRC Resolution on human rights, sexual orientation, and gender identity, as well as the UN Joint Statement on ending violence and

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<sup>3</sup> USAID, *Toolkit for Integrating LGBT Rights Activities into Programming in the E&E Region*, 2014, [http://www.usaid.gov/sites/default/files/documents/1863/LGBT Toolkit 092414.pdf](http://www.usaid.gov/sites/default/files/documents/1863/LGBT_Toolkit_092414.pdf).

<sup>4</sup> United Nations Development Program, ‘Being LGBT in Asia’, accessed 17 June 2015, <http://www.asia-pacific.undp.org/content/rbap/en/home/operations/projects/overview/being-lgbt-in-asia.html>.

<sup>5</sup> U.S. Department of State, ‘Development Officials Study Challenges of Being LGBT in Asia’, *IIP Digital*, 2 July 2014, <http://iipdigital.usembassy.gov/st/english/article/2014/07/20140702303123.html#axzz3dIhHwK7>.

<sup>6</sup> The first phase of “Being LGBT in Asia” included a groundbreaking joint analysis conducted by UNDP and USAID - alongside grassroots LGBT organizations and community leaders - to understand the challenges facing Asia's LGBT community in Asia. Guided by a Senior Asian LGBT Advisory Group, and implemented in eight focus countries and ten additional jurisdictions, the initiative successfully educated and raised awareness among stakeholders about LGBTI rights and the benefits incurred when an inclusive approach is adopted in the development process. A subsequent project is now underway—“Being LGBT in Asia Phase 2”—with the support of UNDP, USAID and the Swedish International Development Cooperation Agency (Sida)<sup>6</sup>. This second phase seeks to enhance the capacity of Asian LGBT organizations, so they are better enabled to advocate for protective laws and policies, as well as engage in activities that mobilize and empower communities.

discrimination against LGBTI adults, adolescents and children.<sup>7,8,9,10</sup> The adoption of Agenda 2030 also provides a timely and critical entry point for this project. Advancing LGBTI equality and inclusion must be understood to be part and parcel of the commitment of the SDGs, to ‘leave no one behind’.

UNDP’s Strategic Plan (2014-2017) also calls for development debates and actions at all levels prioritize poverty, inequality and exclusion, consistent with our engagement principles.<sup>11</sup> These factors all underscore the relevance of the project with the objectives to tackle stigma, discrimination and exclusion, by acting as a platform to capitalize on already existing key synergies and lessons learned.

To achieve these goals, it is crucial that the project responds to the experiences and needs of the LGBTI community in Eastern Europe. While numerous reviews of the situation LGBTI people *vis-à-vis* laws, policies and practices have been carried out in the Western Balkans in the past, currently very little systemic data reflects the issues and circumstances of LGBTI people in the region. Governments often lack data and evidence needed to shape policies and programs for LGBTI inclusion. Civil society typically lacks capacity and opportunity to engage with state and non-state actors in meaningful dialogue on issues of LGBTI rights and inclusion. This lack of data and knowledge on the situation also inhibits private sector engagement. Up to date data would enable analysis on the level of LGBTI rights and inclusion. Such analysis would enable the development of laws, policies, as well as advocacy programs that are more effective in instigating social, legal and political changes, partnerships and opportunities. Such analysis will also provide evidence for the need of better implementation of existing laws and policies.

This proposed project will be implemented by the HIV, Health and Development (HHD) team, Bureau of Policy and Programme Support at the UNDP Istanbul Regional Hub (IRH), in collaboration with UNDP country offices in the selected countries, the HHD Team in New York, in consultation with the Bangkok Regional Hub, as well as civil society counterparts in the selected countries as key partners. The project will also rely extensively on the HHD team’s experience in human rights, health, gender and sexual minorities, experience of the regional project on HIV, rights and universal access (implemented by UNDP with co-funding by the EU in 2012-2014), as well as extensive network civil society contacts. The project will strive to work in synergy with umbrella organizations of LGBTI NGOs such as the Equal Rights Association (ERA), the Eurasian Coalition on Male Health (ECOM), support groups and organizations, and LGBTI-supporting faith-based organizations (where applicable).

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<sup>7</sup> A/HRC/17/L.9/Rev.1

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11167&LangID=E>

<sup>8</sup> OHCHR, *Discriminatory laws, practices, and acts of violence against individuals based on their sexual orientation and gender identity*. Report of the United Nations High Commissioner for Human Rights, 2011,

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41\\_English.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41_English.pdf)

<sup>9</sup> /HRC/27/L.27/Rev.1. [http://ap.ohchr.org/documents/E/HRC/d\\_res\\_dec/A\\_HRC\\_27\\_L27\\_rev1.doc](http://ap.ohchr.org/documents/E/HRC/d_res_dec/A_HRC_27_L27_rev1.doc)

<sup>10</sup> United Nations Joint Statement on ending violence and discrimination against LGBTI adults, adolescents and children, [http://www.undp.org/content/dam/undp/library/corporate/BPPS/Joint\\_LGBTI\\_Statement\\_ENG.pdf](http://www.undp.org/content/dam/undp/library/corporate/BPPS/Joint_LGBTI_Statement_ENG.pdf)

<sup>11</sup> UNDP, *Changing with the World: UNDP Strategic Plan*, 2014,

[http://www.undp.org/content/undp/en/home/librarypage/corporate/Changing\\_with\\_the\\_World\\_UNDP\\_Strategic\\_Plan\\_2014\\_17.html](http://www.undp.org/content/undp/en/home/librarypage/corporate/Changing_with_the_World_UNDP_Strategic_Plan_2014_17.html)

## Rationale for country selection

As former communist states that transitioned to democracy, the selected countries of Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, and Serbia share a common past. National contexts in these countries are different, as are their approaches to LGBTI issues.

While all these countries have experienced outbursts of homophobia and violence against LGBTI people, including at public events, homophobic rhetoric has recently started to be overshadowed by statements in favor of equality and against discrimination, including by politicians and prominent figures in society. LGBTI activism has become more visible and strategic and LGBTI organizations are in close contact in these countries, which is facilitated by the common issues and language and cultural similarities.

All project countries are members of the Council of Europe and as such are bound to the decisions of the European Court of Human Rights.<sup>12</sup> Albania, Macedonia, and Serbia are candidate countries for EU accession. Bosnia and Herzegovina is a potential candidate bound by a Stabilization and Association Agreement. As such, these countries must amend their laws and policies to be in accordance with the EU *acquis communautaire* to become member states. One such example is the requirement to adopt anti-discrimination laws that include sexual orientation and gender identity as prohibited grounds of discrimination. Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Serbia have all shown progress towards the adoption of such laws and measures. However, some countries still have to complete the legislative process, as well as to implement the existing laws and policies in practice.

There have been two UN resolutions passed on sexual orientation and gender identity. As there are only 47 seats on the UNHRC—six of which are for Eastern Europe—at the time of the first resolution in 2011, none of the proposed countries were members-elect.<sup>13</sup> Yet, Albania and Macedonia both held seats at the time of the 2014 Resolution and both signed in favor, “expressing grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity”.<sup>14</sup>

The legislative and political processes in these countries, in particular the need to meet the Copenhagen criteria for EU membership in the fields of rule of law and human rights create “windows of opportunity” for reducing inequalities and exclusion experienced, combating homo- and transphobia and promoting greater respect for the human rights of LGBTI people. Preliminary discussions with UNDP COs has identified strong interest, suitable positioning and adequate capacity of COs to implement this project.

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<sup>12</sup> The Council of Europe has recognized that Kosovo has more or less aligned its domestic legislation with the European Convention on Human Rights.

<sup>13</sup> United Nations General Assembly, *17/19 Human Rights, Sexual Orientation and Gender Identity* (United Nations Human Rights Council, 2011), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/148/76/PDF/G1114876.pdf?OpenElement>.

<sup>14</sup> United Nations General Assembly, *27/32 Human Rights, Sexual Orientation and Gender Identity* (United Nations Human Rights Council, 2014), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/177/32/PDF/G1417732.pdf?OpenElement>.

## Leadership through partnership

UNDP will use a participatory approach that ensures beneficiaries of the project, particularly LGBTI civil society organizations, but also specific government counterparts provide leadership in all aspects of project implementation.

Many partnerships are expected to develop over the course of the implementation of this project, including with and among bilateral donors, private foundations, LGBTI and ally NGOs, faith-based organizations, the private sector, and relevant international organizations and bodies.

UNDP has already discussed, at a preliminary level, the opportunities for partnership with the leadership of ERA. UNDP has established that the project goal and the mission of ERA are complementary and there are opportunities for cooperation, in particular in capacity assessment and capacity development support and convening a sub-regional dialogue on LGBTI issues with the participation of civil society, government representatives, as well as other relevant regional and global actors, engaged in the LGBTI discourse.

## The role and added value of UNDP

### Global positioning

UNDP is the multilateral institution with a convening role *vis-à-vis* both governments and civil society across three main pillars of development (sustainable development pathways, inclusive and effective democratic governance, and resilience and effective governance). UNDP is on the ground in 170 countries and territories, working with governments and people on their own solutions to global and national development challenges to help empower lives and build resilient nations. The breadth and depth of UNDP's technical expertise and capacity building support on human rights, poverty reduction, health, addressing exclusion of marginalized people, etc. will help provide the basis for capacity building and advocacy by LGBTI community-based groups and NGOs and the strengthening of these networks.

### Mandate and experience

UNDP can engage national and local governments on the issues and in the work in a way NGOs cannot engage them. UNDP has demonstrated in Asia (on LGBTI issues) and in all regions (in the fields of governance, human rights and law) that it has the ability to facilitate channels of communication and substantive engagement on sensitive issues between government and NGOs that just does not happen effectively or consistently when NGOs have to do this on their own. UNDP has a lot of experience in Eastern Europe in engaging key government counterparts, as well as civil society, on the LGBTI-related issues of sexual orientation and gender identity and HIV risks. UNDP is well aware of the possibilities and entry points for moving the LGBTI agenda forward. With its mandate and global experience in catalyzing social and economic development, UNDP can move forward together with national and subnational

partners to create the conditions in which all Eastern Europeans can live free and equal lives regardless of their sexual orientation or gender identity or expression.

## Regional expertise and partnership capability

In Eastern Europe and the Commonwealth of Independent States (CIS) UNDP is uniquely positioned to convene authorities from countries with complex territorial and political structure (e.g. Bosnia and Herzegovina), or complex ethnic regionalization (e.g. the former Yugoslav Republic of Macedonia). Under the auspices of UNDP countries/territories that have challenging political relations could come to the dialogue table (e.g. Serbia and Kosovo).

UNDP will strive to include not only central authorities and well-established civil society actors but also local authorities and LGBTI groups. UNDP can leverage existing work in supporting LGBTI organizations, particularly in the field of human rights and health. Eastern Europe and Central Asia is one of the two global regions where the HIV epidemic is on the rise and, while the main method of transmission remains use of non-sterile injecting equipment, the HIV prevalence among men who have sex with men is a reason for concern<sup>15</sup>. Together with other UNAIDS co-sponsors UNDP has supported the creation of a [Eurasian Coalition on Male Health](#) – an umbrella organization of LGBTI NGOs and individuals in Eastern Europe and the CIS. UNDP has also been engaged in supporting access to health services of LGBTI people at country levels, as well as (in the field of health, HIV and TB) by engaging local governments. UNDP's HHD Team was also engaged in the discourse around improving the response to HIV among gay and bisexual men in Europe, especially in the context of stigma, discrimination and lack of adequate access to health services<sup>16</sup>.

In October 2015, twenty-five LGBTI NGOs from seven Western Balkan countries and Turkey established an umbrella organization – the Equal Rights Association (ERA), now registered in Serbia.<sup>17</sup> ERA's mission is to inspire positive change in the society, promote and advocate for human rights of people of all sexual orientations, gender identities and expressions, and sex characteristics, by facilitating cooperation and providing resources and capacity development for the LGBTI movement across the Balkans and Turkey.

UNDP perceives the emergence of ERA as a positive development in the sub-region. We see big potential for cooperation. The establishing of ERA could facilitate the capacity development work with civil society and help UNDP concentrate in facilitating dialogue with relevant

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<sup>15</sup> UNAIDS, The Gap Report, 2014,

[http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/documents/unaidspublication/2014/UNAIDS\\_Gap\\_report\\_en.pdf](http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/documents/unaidspublication/2014/UNAIDS_Gap_report_en.pdf)

<sup>16</sup> Changing the Game - How can Europe move towards zero new HIV infections, zero discrimination and zero AIDS-related deaths? UNAIDS expert consultation summary report, 2014

[http://www.aidsactioneurope.org/system/files/publications/files/changing\\_the\\_game\\_unaids\\_meetingreport.pdf](http://www.aidsactioneurope.org/system/files/publications/files/changing_the_game_unaids_meetingreport.pdf)

<sup>17</sup> ERA members are: Alliance against LGBTI Discrimination, OMSA, PINK Embassy, ProLGBT (Albania); Sarajevo Open Centre, CURE Foundation, LibertaMo (Bosnia and Herzegovina); Subversive Front, Coalition for Sexual and Health Rights of Marginalized Communities, LGBT Support Centre, LGBT United Tetovo (fyROM); Center for Equality and Liberty, Centre for Social Group Development (Kosovo); LGBT Forum Progress, Queer Montenegro, Juventas (Montenegro); Labris, Gayten – LGBT, Rainbow Association, YUCOM, Come-out (Serbia), KAOS GL, LISTAG, Pink Life, SPoD (Turkey).

government bodies and (if applicable) regional organizations, as well as fostering partnerships between government and civil society. It has to be taken into account that ERA is a very young umbrella NGO, still in the process of shaping up its Secretariat and starting operations. This project is also a good opportunity for UNDP to support the capacity development of ERA and help the organization establish itself as a long-term regional focal point and reliable partner.

UNDP's role would not only be to convene civil society and government but also to prepare them on how to engage in a productive dialogue with each other on LGBTI issues. UNDP will facilitate the dialogue and help document the results in an "actionable" way. We have extensive global and regional experience in preparing, carrying out and following up through use of such fora. UNDP could also secure the presence of sister UN agencies, as well as regional organizations and entities that promote rights of LGBTI people, such as the Council of Europe and the EU.

## Partnership with USAID and visibility

USAID's leadership on LGBTI issues worldwide and in the region over the past years is invaluable for the successful implementation of this project, and, in that sense, USAID is much more than a donor. The proposed project will rely on the framework outlined in USAID's *Toolkit for Integrating LGBT Rights Activities into Programming in the Europe & Eurasia Region*, as well as other policies and instruments. The project will be structured to identify synergies with the work of USAID country offices in the selected countries, where applicable. For instance, UNDP in Bosnia and Herzegovina is planning to implement a project on LGBTI and rights issues with the participation of the ombudsman's office, which is complementary to the goals and activities of this project. For further information, please see the section "[Synergies with USAID LGBTI and rights initiatives](#)" (pages 33 - 38). The support of USAID will be recognized and made visible as per the Agency's brand regulations, including country sub-brands, as required.

## Project goal

The proposed project has the following goal to achieve in the region through targeting the four selected countries:

**Reduce inequalities and exclusion experienced by LGBTI people while combating homophobia and transphobia and promoting greater respect for the human rights of LGBTI people in Eastern Europe.**

## Project objectives

The proposed project has the following mutually reinforcing objectives:

1. Strengthening the data and evidence base on LGBTI issues in Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, and Serbia, particularly regarding human rights violations, lack of enabling legislation, or insufficient implementation of existing legislation and policies.
2. Increasing awareness of stakeholders about the situation and rights of LGBTI people in Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, and Serbia using materials in local languages that facilitate education and advocacy on LGBTI rights and inclusion among government officials, civil society, media, and the general population.
3. Enhancing the capacity of governments and LGBTI civil society organizations and allies in Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, and Serbia for meaningful engagement on advancing LGBTI rights and inclusion. Fostering sub-regional discussions and partnership developments.

## Expected project results

Upon completion of the project, the following results can be expected:

- Project civil society partners identified (at least one per country) and assessed through rapid assessment for capacity and capacity needs. Recommendations for improvement made and discussed as appropriate.
- Increased information and data available to all stakeholders on LGBTI right and inclusion in the selected four countries.
- “Being LGBT in...” reports available for all four countries, in English and national languages.
- Partnership opportunities between various stakeholders identified during national roundtables and the sub-regional dialogue and documented.
- Common challenges and opportunities for advancing LGBTI rights and inclusion documented. Good practices for regional and cross-regional collaboration produced.
- Collaboration between civil society and government stakeholders initiated for each of the four selected countries.
- Sub-regional collaboration initiated.
- Kosovo and Montenegro benefiting from the sub-regional dialogue and resources created by the project.
- Opportunities for expansion of the project, subject to future funding created by: identifying relevant stakeholders from countries of the region through UNDP COs and inviting them to the dialogue. Multiplier effect that could benefit other countries in the region by outlining good practices, common problems and advocacy issues, use of the virtual one-stop shop.
- Factsheets, infographics and social media macros produced audiences from the project countries and regional organizations in mind, in English and local languages.

## Project activities

### The composition of the project team

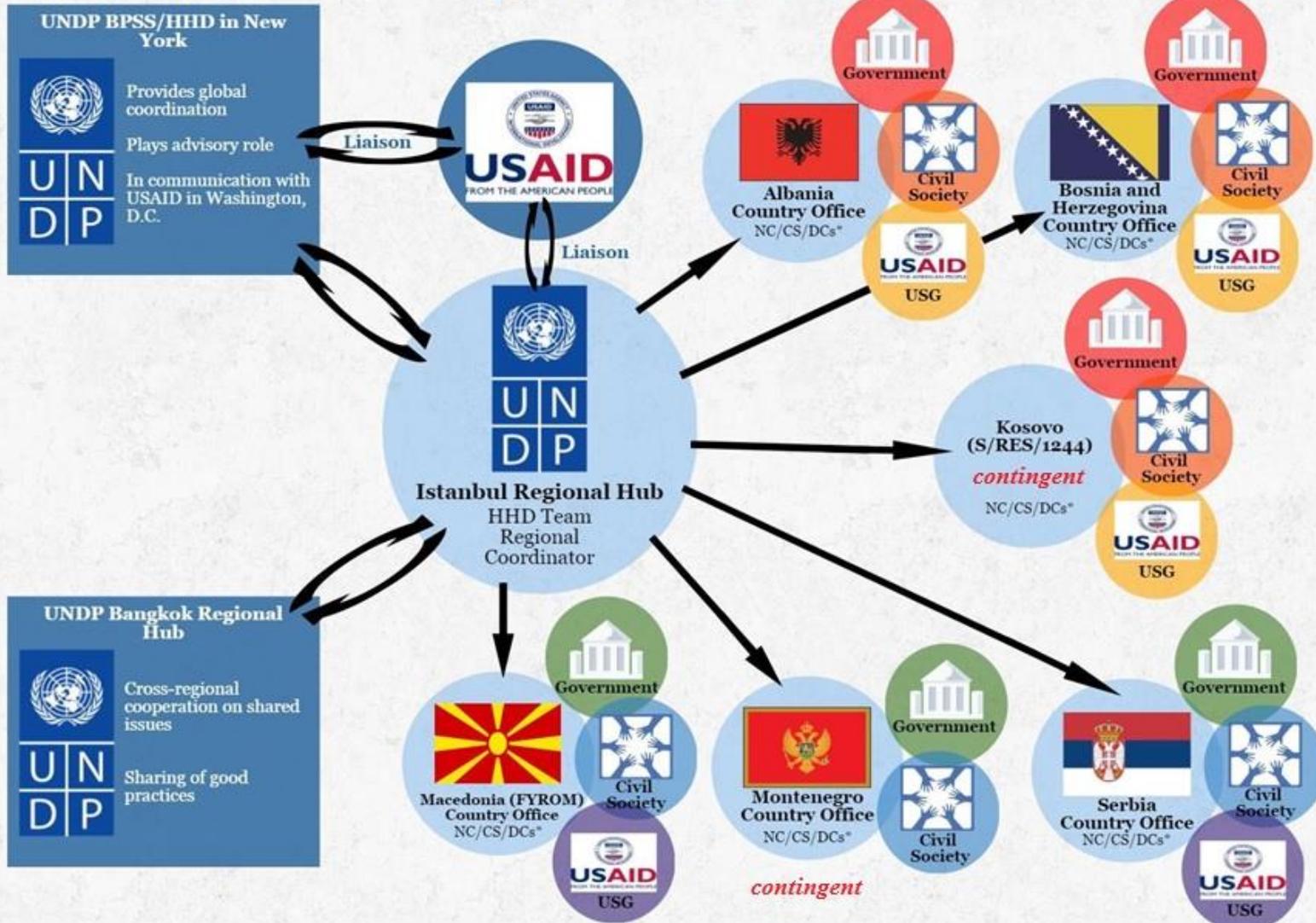
Main implementer of the project will be the HHD Team at the UNDP Istanbul Regional Hub (IRH). The HHD Regional Team Leader within the UNDP IRH will provide project managerial guidance. The Team Administrative Associate will support the project on financial and logistical matters. UNDP IRH will recruit a Regional Project and Quality Coordinator for the duration of the project to support the daily project activities and liaise with country coordinators. The Project Coordinator will be based at the Istanbul IRH.

In the four countries, UNDP country offices (CO), in close coordination with IRH will recruit national coordinators to support project implementation, including logistics and communication. The four national coordinators will be based in the COs. Short-term consultants will be hired on need basis (IT and web development, translation, logistics). Cooperation with governments, civil society and USAID missions will be carried out at the CO level. Qualified LGBTI candidates will be encouraged to apply.

The Regional Team Leader at UNDP IRH will supervise this team, with cross-supervision from relevant CO staff. UNDP IRH HHD Team will provide the liaison with the HHD Team in New York and the Bangkok Regional Hub for Asia and the Pacific.

<b>Team Member</b>	<b>Engagement</b>
<b>IRH HHD Team Leader</b>	5%
<b>IRH HHD Administrative Associate</b>	25%
<b>Regional Project and Quality Coordinator</b>	100%
<b>Four National Project Coordinators</b>	100%
<b>Consultants (design, data collection, translation)</b>	<i>ad hoc</i>
<b>HHD NY and Bangkok Regional Hub</b>	<i>ad hoc, in-kind</i>

## Being LGBTI in Eastern Europe Organizational Chart



\* = National Coordinator/Consultants/Data Collectors

## Country level approach: research, call for partnerships, rapid assessment, national roundtables, “Being LGBTI in...” reports

Utilizing the successful example of the USAID-UNDP *Being LGBT in Asia, Phase I*, the country level approach will include national mapping of ongoing efforts, identification of civil society stakeholders and rapid assessment of their capacity to undertake project activities. These activities will help develop the project’s backbone and will enable more in-depth capacity development and advocacy initiatives, subject to availability of funding for continuation and expansion. The implementers will focus on the four selected countries; and will inform all national stakeholders about the situation of LGBTI people in their respective countries, the difficulties that LGBTI people encounter, any good practices and lessons learned and opportunities for improvement. The work under this initiative would ensure all partners are well-positioned to implement meaningful change in the immediate future.

### Call for partnership applications to civil society

UNDP will send out calls to civil society organizations - including grassroots and community groups- to apply to become national project partners. This call seeks to ensure that at least one organization per country, ideally two, or more, is selected to partner. The selected civil society partners are expected to partner in organizing the national roundtables and, if applicable, the dialogue.

The civil society partners will be selected by a panel of experts on LGBTI issues (an Advisory Group), who will be working in virtual space to ensure cost effectiveness and applying transparent criteria and procedures.

### Rapid capacity assessment of civil society partners

Following the selection, the Regional Project Coordinator, will go on country missions to carry out rapid capacity assessments of the selected partners. These missions will involve the participation of COs. An adaptation of the UNDP Capacity Assessment Methodology will be used.<sup>18</sup> Recommendations on improving the capacity of civil society will be produced for implementation by the selected partners.

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<sup>18</sup> Bureau for Development Policy: Capacity Development Group, *Capacity Assessment Methodology: User’s Guide*, 2008, [http://www.undp.org/content/dam/aplaws/publication/en/publications/capacity-development/undp-capacity-assessment-methodology/UNDP Capacity Assessment Users Guide.pdf](http://www.undp.org/content/dam/aplaws/publication/en/publications/capacity-development/undp-capacity-assessment-methodology/UNDP%20Capacity%20Assessment%20Users%20Guide.pdf).

## National roundtables

With support from the UNDP CO, USAID missions, selected civil society partners and interested government agencies, actors, and institutions the implementers will use the rapid assessment country missions to convene low-cost national roundtables. The purpose of these roundtables will be two-fold: to inquire about possible common points of action and partnerships between government and civil society (and, in certain cases also to introduce government and civil society partners), and to introduce the project and the upcoming national and sub-regional activities. These national roundtables will also serve to prepare government and civil society for the dialogue, which is another component of this project.

## Data collection. Development of “Being LGBTI in...” reports

UNDP will recruit consultants to collect national data on the situation of LGBTI people in the selected countries *vis-à-vis* stigma, discrimination, inequality and social exclusion and violence. The work of the consultants will be based on assessments and the information acquired during the national roundtables. The consultants will work together with the national coordinators (the role of national coordinators is described on page 15) and the selected civil society partners and in close coordination with the country offices. The data collection will also encompass positive examples in the field of enabling laws, policies and practices. The process will also examine the new developments in anti-discrimination legislation, the harmonization of national laws with human rights and equality-related norms of the European Union legal framework (the *acquis communautaire*). The consultants will map newly emerged national institutions that have mandates related to LGBTI issues, such as constitutional rights protectors (ombudspersons), anti-discrimination commissions, and others. The consultants will draft national “Being LGBTI in...” reports, with support from civil society and relying on the collected data. The reports will aim to outline topics of common agreement and opportunities for joint action by government and civil society, as well as topics for further dialogue and advocacy. The report’s conclusions and recommendations will be used to structure the dialogue to be convened under this project.

## Sub-regional level approach and possibilities for regional expansion

### Dialogue

A sub-regional dialogue for the selected countries will bring together state representatives from various levels/parts of government (e.g. national and city level; ministries, judiciary, parliaments, police, ombudspersons, anti-discrimination agencies, etc.) with LGBTI civil society groups, activists, and allies, and relevant private sector actors in safe spaces. The dialogue will aim to

establish evidence-informed discussions, build partnerships, identify capacity needs and set a forward-looking agenda for cooperation grounded in the LGBTI lived experiences in Albania, Bosnia and Herzegovina, Macedonia, and Serbia from a development and human rights perspective. Invitees from Kosovo and Montenegro, as well as from countries beyond the sub-region could also contribute to these discussions.

The dialogue will seek to examine LGBTI rights and inclusion in each of the countries. Furthermore, the dialogue will seek to identify opportunities, build trust, and promote innovation and action. Based on the assessment, national roundtables and “Being LGBTI in...” reports, government and civil society actors will develop joint action plans on issues they have common understanding and agreement. The dialogue will provide space for civil society to advocate more complex positive policy changes and identify suitable government partners. In addition, the dialogue will provide opportunities for initiating sub-regional cooperation and borrow from the good practices established under “Being LGBT in Asia”, if applicable to the sub-region. USAID country offices and missions will be invited and actively involved in the dialogue.

The project implementers will invite representatives of international agencies, engaged in LGBTI rights in the region, within, and beyond the UN system, to participate in the dialogue. The project implementers will also invite Eastern European countries beyond the selected four countries in the Balkans sub-region, such as Kosovo and Montenegro to participate in the dialogue. Countries beyond the sub-region considered to take part in the dialogue are Georgia, Moldova and Ukraine, and possibly Turkey. This could be a strategic investment, setting the stage for rapid expansion of the coverage of the project were additional funding to be secured in the future. Their participation will also provide an overview of challenges and opportunities other EECA countries experience in the context of LGBTI issues.

The newly established regional LGBTI umbrella Equal Rights Association (ERA) is envisioned to play an important role in the communication with civil society, through its extensive membership that covers the whole region. The [Eurasian Coalition on Male Health](#), an umbrella organization focusing on rights and health issues of LGBTI people in countries of the former Soviet Union and some Western Balkan countries (e.g. the former Yugoslav Republic of Macedonia), and which is supported by UNDP, will also be invited to participate, in order to identify opportunities for further regional programme work.

## Virtual one-stop shop

International and regional LGBTI human rights instruments, standards, principles and policy recommendations, are widely available to civil society in the sub-region. However, government counterparts are not always familiar with these instruments. One of the many factors that influence this tendency is the particularism of these sources and the lack of compendia, accessible at one place and available in local languages. Availability in the local language is often an underestimated factor. English is now commonly used in Eastern Europe as a working language; however, national laws mandate that official policies, positions and government correspondence be drafted in the national languages. Similar provisions exist for referring to foreign sources in correspondence with administrative authorities, or in submissions to the court.

This often leads to expensive and sometime poor-quality translations and delay in examining the subject matters of the requests. A virtual one-stop shop with quality translations of these materials to local languages will significantly contribute to the quality of government work and civil society advocacy on LGBTI issues. Conversely, availability of quality national sources in the English language will improve access to up to date national information on LGBTI issues of international donors and advocates, which will increase the opportunities for cooperation and support.

UNDP will coordinate the development of a web-based platform that will facilitate the submission of data, evidence and information on the rights situation of LGBTI people in the select countries. The platform will allow expansion and introduction of multilingual components. The platform would allow submission of information through applications on tablets, smartphones and other portable devices. National reports “Being LGBTI in...” as well as the report of the sub-regional dialogue will also be available on the platform. UNDP will encourage civil society partners to reach out to other partners in order to increase visibility, uptake and impact.

All stakeholders, including government agencies, will also be provided an opportunity to contribute to the platform by submitting resources and materials about initiatives that are undertaken by the government in support of LGBTI rights and inclusion. An important component of this platform will be compiling information where LGBTI people could receive health-related services, including on HIV and other STI prevention, treatment, care and support, psychological counselling and support, peer support groups, etc.

Subject to the availability of additional funding, the one-stop shop could be further expanded to include information on other countries, as well as additional component, such as courses and webinars, curricula, etc.

UNDP will explore the opportunities to develop this virtual one stop shop in coordination with ERA, possibly by using their website, or similar resources, to host the virtual platform. Kosovo and Montenegro are going to benefit from these resources as well, as regional documents to be posted in virtual space have the same relevance for these countries.

## Project budget

The budget of the proposed project is **US\$ 499,856**. The budget with breakdowns is available below (page 21). If the project expands to include national activities in other countries of the sub-region (e.g. Kosovo and Montenegro) and beyond the sub-region (e.g. Georgia, Moldova, Ukraine, possibly Turkey), there would be a need to examine the financial needs of the expanded project in greater detail – as this would also increase the project management cost. Additional time for implementation would be required.

<b>Activity</b>	<b>Cost</b>
<b>Project Team</b>	
Regional Project & Quality Coordinator (IC)	\$115,000
IRH Admin Associate contribution (25%)	\$7,500
Regional Team Leader (5%)	\$12,800
Coordinator AL (local hire, or IC@100%)	\$30,000
Coordinator BIH (local hire, or IC@100%)	\$30,000
Coordinator FYROM (local hire, or IC@100%)	\$30,000
Coordinator SRB (local hire, or IC@ 100%)	\$30,000
<b>Call for Partnership Applications</b>	\$0
<b>Capacity Assessment and National Roundtables</b>	
Missions (four regional missions)	\$16,000
<b>Sub-regional Dialogue</b>	
Dialogue (venue, travel, services, DSA)	\$80,000
<b>Data Collection</b>	
Consultants (four short-term)	\$20,000
Translators (four short-term)	\$20,000
Website (repository) web-developer	\$15,000
"Being LGBTI in..." reports (consultants)	\$40,000
<b>Subtotal:</b>	\$446,300
<b>GMS and other direct costs (12%)</b>	\$53,556
<b>TOTAL</b>	<b>\$499,856</b>

## Note on staff costs

By proposing to focus in the Western Balkans, UNDP knows that there are both strengths and challenges that we will contend with. The strength is that this is a sub-region of great opportunity because of complimentary positive pressures at play, particularly the EU accession processes. The challenge is that this is a sub-region in which we have few core and no external resources to leverage (unlike for UNDP in Asia and in Africa) and so we were clear that for what we hope will be the first phase of the project all of the direct human resource costs to UNDP would have to be covered by the project. As noted in the proposal, UNDP is committed to utilizing the opportunity of the project to resource mobilize with other donors and potential partners that can join the initiative with other resources.

All staff-related costs were discussed with UNDP country offices and cover the minimum salary and seating costs. Staff cost in the Western Balkans are more expensive than other sub-regions in EECA (e.g. countries of the former Soviet Union, with the exception of Russia and Kazakhstan), as well as some other regions in the world. The short implementation period and the goals, objectives and deliverables require that the project is appropriately staffed. The project implementation, particularly the development of the "Being LGBTI in..." country reports, the national roundtables and the sub-regional dialogue will require extensive coordination efforts, liaising with experts, correspondence with government authorities and civil society, engagement in logistics. If the parties agree, some work could be outsourced to ERA. For instance, the development of the one-stop shop on rights issues is in line with some of the future content of ERA's website. However, data collection, report-production and events will require coordination by UNDP.

## Opportunities for scale-up

Given the time and funding available, the selection of initial countries for project implementation and scope of activities to be delivered have been limited in order to ensure quality results. The project has been designed to allow for geographical expansion and thematic growth, if the initial phase is successful and/or should additional funding become available.

Subject to additional funding *and* more time for implementation, the project could also be expanded in the sub-region (e.g. in Kosovo and Montenegro) and beyond the sub-region - for instance in Georgia, Moldova, Ukraine. The project implementers could also explore the involvement of other countries in the region, such as Turkey, in the project.

Programmatically, the project could be supplemented and expanded with more resources and time to include other modules. One such module could be on virtual trainings for civil society and government on human rights and LGBTI issues, which can be carried out through the virtual one-stop shop in an effective and cost-efficient manner, including through involvement of civil society activists as trainers.

Another opportunity would be the development of academic curricula on LGBTI issues for university programs in social sciences, gender and human rights. The beneficial effect through educating the future generation of LGBTI rights-conscious professionals could be substantial.

Another component that could be introduced is the linking of civil society actors focusing on LGBTI issues and rights defenders and free legal aid providers, including law firms. This could be done on one hand through the [Regional HIV Legal Network](#), which is supported by UNDP (e.g. on issues related to HIV, health, punitive laws and practices), as well as through pro bono firms, operating through the Clearing House of the [Public Interest Law Network](#) (PILnet), with which UNDP has collaborated in the past through the Regional Legal Network.

## Timeline

Activity	2016												2017
	1	2	3	4	5	6	7	8	9	10	11	12	1
Recruitment and composition of the Project team	X	X											
Call for civil society partnership applications	X	X											
Capacity assessment of civil society partners	X	X	X	X									
Mapping and collection of existing data/information	X	X	X	X	X								
In-country processes leading to national reports	X	X	X	X	X	X	X	X	X	X			
Sub-Regional Dialogue											X	X	
Evaluation and Final Reporting													X

## Logical framework

Please see pages 25-28

	SUMMARY	INDICATORS	MEANS OF VERIFICATION	RISKS / ASSUMPTIONS
<b>GOAL: Reduce inequalities and exclusion experienced by LGBTI people while combating homophobia and transphobia and promoting greater respect for the human rights of LGBTI people in Eastern Europe.</b>				
<b>OBJECTIVE 1: Strengthening the data/evidence base on LGBTI issues in Albania, Bosnia and Herzegovina, FYROM, and Serbia</b>				
<b>OUTCOME</b>	Information is documented and made available.	Presence, relevance and timeliness of information.	Available reports.	Lack of access to information, unwillingness of government to cooperate, lack of interest from civil society. To mitigate through country office engagement and careful partner selection.
<b>OUTPUTS</b>	Up-to date data on the situation of LGBTI people in Albania, Bosnia and Herzegovina, FYROM, Kosovo, Montenegro, and Serbia collected, documented and analyzed.			
<b>ACTIVITIES</b>	1. Recruitment of one regional and four local coordinators	Positions widely advertised, including to LGBTI community. ToR and contracts in place.	Evidence of advertising – postings, list services, clicks on website. Number of candidates, ToR and contracts.	Lack of suitable candidates. To be mitigated through available LGBTI and human rights networks.
	2. Launching calls for partnerships	Audience covered. Number of responses. Number of identified partners.	Documentation of launch – list serves, addresses, clicks on website. Number of documented responses. Number of partnerships established (MoU, correspondence, other means).	Lack of interest/insufficient number of partners. To be mitigated by wide advertising, conveying information about the beneficial effect of the project, follow up.
	3. Carrying out four national roundtables during assessment missions.	Appropriate stakeholder identified, roundtables carried out, common issues identified, opportunities for dialogue established.	Concept notes, agendas and LoP of roundtables, reports, evaluation forms.	Lack of interest from government – to be mitigated through active CO involvement. Confrontations – to be mitigated through coaching, moderating.

	4. Recruiting consultants/data collectors and drafting “Being LGBTI in...” reports (number to be determined)	Consultants/data collectors recruited, reports produced and translated.	ToR and CVs, reports, translations.	Lack of suitable candidates – to mitigate through wide advertising, including civil society networks.
<b>OBJECTIVE 2: Increasing awareness of stakeholders about the situation and rights of LGBTI people in Albania, Bosnia and Herzegovina, FYROM, and Serbia using materials in local languages that facilitate education and advocacy on LGBTI rights and inclusion</b>				
<b>OUTCOME</b>	Information about the situation of LGBT people in the selected countries and the need to protect, uphold and fulfill the rights of LGBT people and accessible to all stakeholders, including in national languages.	Stakeholder accessing information	Evidence of use (reports, official documents, civil society campaigns, correspondence. Feedback.	Low level of interest and use of site. To be mitigated through active advertising, linking to other useful resources, promotion through metatags.
<b>OUTPUTS</b>	A virtual one-stop shop with all international, regional and country instruments and standards online and operational. Four national “Being LGBTI in...” reports published on site.	Site online, operational, filled with content, and used.	Number of documents uploaded, site traffic statistics, feedback from users.	
	5. Develop and launch one virtual one-stop shop, accumulate and translate information, upload and disseminate	Site online, operational, filled with content, and used.	ToR and contract of developer, ToR and contract of translators, number of documents uploaded, site traffic statistics, feedback from users. Number of persons targeted with launch message.	

**OBJECTIVE 3: Enhancing the capacity of governments and LGBTI civil society organizations and allies in Albania, Bosnia and Herzegovina, FYROM, and Serbia for meaningful engagement on advancing LGBTI rights and inclusion.**

<p><b>OUTCOME</b></p>	<p>Key stakeholders meaningfully engaged in LGBTI issues. Dialogue and actions between civil society and governments in Albania, Bosnia and Herzegovina, FYROM, and Serbia initiated.</p>	<p>Issues discussed at dialogue, partnerships initiated</p>	<p>Number of government agencies and civil society organizations represented per country. Evaluation of dialogue by participants, dialogue report. Number of partnerships in follow up (as evidenced by correspondence).</p>	<p>Resistance from government partners to engage – to be mitigated by dissemination of detailed concept notes using influence of COs and USAID (where applicable), careful selection of participants.</p>
<p><b>OUTPUTS</b></p>	<p>Capacity of civil society actors to engage with government on LGBTI issues assessed and documented. The situation of LGBTI people in Albania, Bosnia and Herzegovina, FYROM, and Serbia examined and discussed between civil society and government during sub-regional dialogue; common action points and issues requiring further advocacy outlined. Partnerships initiated.</p>	<p>All issues identified during roundtables/ in “Being” reports discussed. Common action points identified. Partnerships initiated between government and civil society</p>	<p>Issues discussed during dialogue match issues in “Being LGBTI” reports/ identified at roundtable, as evidenced by documentation. Partnerships evidenced by correspondence, MoUs, reports by civil society project partners.</p>	<p>Confrontations between civil society and government. To be mitigated by coaching and facilitating discussions.</p>
	<p>6. Carrying out four rapid assessment missions and rapid assessments of identified civil society partners and developing recommendations (exact number to be determined based on responses to the call for partnerships)</p>	<p>Capacity of identified partners assessed, recommendations made and documented.</p>	<p>Number of missions carried out, evaluations of missions (evaluation forms). Number of missions, number of rapid assessments, assessment reports, evaluation forms of missions. Use of UNDP assessment tool, as adapted.</p>	<p>Partners not wanting to participate in assessment process. Rapid assessment results poor. To be mitigated by coordinating assessment missions, actively engaging COs, adjusting level of involvement and expectations if capacity is determined low (“reality check”).</p>

7. Organize and complete one sub-regional dialogue for Albania, Bosnia and Herzegovina, FYROM, , and Serbia with participation of government and selected civil society partners (and possible involvement of actors from other countries in the region, such as Kosovo and Montenegro) to discuss priorities in LGBTI issues, common action points and issues requiring further advocacy. Foster the creation of government/civil society partnerships in selected countries.

Dialogue organized and attended by relevant stakeholders. Issues discussed. Action points outlined, partnerships forged.

Agenda, LoP, report. Partnerships evidenced by correspondence, MoUs, reports by civil society project partners.

## Global context

The global LGBTI movement is still relatively young, yet the tireless advocacy efforts of the LGBTI global movement have yielded impressive results - even in the face of violence, discrimination and resistance from authorities and civil society.

As of 2015, same-sex marriage is recognized in 18 countries, discrimination in employment on the grounds of sexual orientation is prohibited in 63 countries and a constitutional prohibition to discrimination on the grounds of sexual orientation exists in seven countries.<sup>19</sup> The strides taken by many countries to change or adopt laws to not only protect individuals based on sexual orientation, but also based on gender identity of transgender persons or intersex people, is also encouraging.

Yet, there remains much work to be done to foster free and equal societies: consensual same-sex sexual acts among adults are still illegal in 76 countries, eight states officially legislate a death penalty for same-sex relations, while only five implement it. Hate crimes based on sexual orientation are considered an aggravating circumstance in 34 countries—including in all project countries except Macedonia<sup>20</sup>. The ripple effect of punitive laws and practices depriving LGBTI people of their rights is far-reaching: they can lead to denial of care and/or hindered access to health services, including but not exclusively, to appropriate sexual and reproductive health care, HIV prevention and treatment, and in the case of transgender people, gender-affirming treatment.<sup>21,22</sup>

As fear continues to dominate the everyday lives of LGBTI people, particularly LGBTI youth, a more comprehensive approach is required. Currently, the response to homophobic and transphobia violence by governments, international organizations, judiciaries, law enforcement, community and religious leaders and the media is frequently inadequate and poorly implemented. For example, with under-reported and under-investigated attacks, victims are often left with little to no support and few measures to rely upon to respond and reclaim their rights.

As more evidence yields that discriminatory attitudes diminish in countries that abolished discriminatory laws and enforce anti-discriminatory practices, it becomes evermore apparent that the push to ensure legal regimes protect LGBTI persons must continue. What is most promising

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<sup>19</sup> Aengus; Carroll and Lucas Paoli Itaborahy, *State-Sponsored Homophobia: A World Survey of Laws: Criminalisation, Protection and Recognition of Same-Sex Love*, 2015, 10, [http://old.ilga.org/Statehomophobia/ILGA\\_State\\_Sponsored\\_Homophobia\\_2015.pdf](http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2015.pdf).

<sup>20</sup> Ibid.

<sup>21</sup> United Nations Development Program, UN AIDS, and Global Commission on HIV and the Law, *Regional Issue Brief: For the Eastern Europe and Central Asia Regional Dialogue of the Global Commission on HIV and the Law* (Chişinău, Moldova, 2011), <http://www.hivlawcommission.org/index.php/regional-dialogues-main/eastern-europe-and-central-asia?task=document.viewdoc&id=19>.

<sup>22</sup> Rifat A. Atun, 'How European Health Systems Have Reacted to the HIV/AIDS Epidemic', in *HIV/AIDS in Europe: Moving from Death Sentence to Chronic Disease Management*, ed. Srdan Matic, Jeffrey V. Lazarus, and Martin C. Donoghoe (Copenhagen, Denmark: World Health Organization Europe, 2006), [http://www.who.int/hiv/pub/idu/hiv\\_europe.pdf](http://www.who.int/hiv/pub/idu/hiv_europe.pdf).

is the recent overwhelming support shown by international organizations, foreign governments and the private sector alike, in the global LGBTI movement, rendering the implementation of projects, such as the one proposed, very timely.

On September 26, 2014, the UN Human Rights Council passed a second UN resolution to combat violence and discrimination based on sexual orientation and gender identity—three years after the first resolution by a UN body on human rights violations based on sexual orientation and gender identity was brought forward.<sup>23</sup> As compared to the June 2011 resolution, the September 2014 resolution saw increased support, coming from all regions.<sup>24</sup>

The governments of the United States, Croatia, Denmark, Finland, France, Germany, Iceland, the Netherlands, Norway and Sweden, as well as the Arcus Foundation, the John D. Evans Foundation, LLH: the Norwegian LGBT Organization, the M·A·C AIDS Fund and OUT leadership, have all supported the Global Equality Fund to advance the LGBT rights movement on a global scale.<sup>25</sup> Two private sector contributions have been made: the Royal Bank of Canada and Deloitte Touche Tohmatsu Limited based in the United Kingdom have joined the movement.<sup>26</sup> As the largest funders of the LGBTI global movement, the Nordic countries have taken the lead, with the U.S. government, joining the cause and showing leadership through the provision of management support for the Global Equality Fund.

Building upon the existing global momentum of the LGBTI movement, and in tandem with recent support from foreign governments, involvement of the private sector and advocacy statements from UN Secretary-General Ban Ki-moon,<sup>27</sup> there is no better time to advance LGBTI rights. Lastly, such a discussion could be even more opportune if discussed alongside the issues of equality and inclusion within the implementation framework of the Sustainable Development Goals.

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<sup>23</sup> Human Rights Watch, ‘UN: Landmark Resolution on Anti-Gay Bias: Condemns Violence, Bias Based on Sexual Orientation, Gender Identity’, *Human Rights Watch*, 26 September 2014, <http://www.hrw.org/news/2014/09/26/un-landmark-resolution-anti-gay-bias>.

<sup>24</sup> Ibid.

<sup>25</sup> Office of the Spokesperson, ‘The State Department Welcomes the Royal Bank of Canada to the Global Equality Fund’, *U.S. Department of State*, 2 September 2014, <http://www.state.gov/r/pa/prs/ps/2014/09/231223.htm>.

<sup>26</sup> Ibid.

<sup>27</sup> Human Rights Watch, ‘UN: Ban Ki-Moon Condemns Homophobic Laws: Calls for Protection of LGBT People’, *Human Rights Watch*, 12 December 2012, <http://www.hrw.org/news/2012/12/17/un-ban-ki-moon-condemns-homophobic-laws>.

## Regional context

Major challenges that still exist for LGBTI people in Eastern Europe include; violence, intolerance, rejection by families, chronic unemployment, and poor access to adequate health services, fear and isolation. Although homosexuality was decriminalized throughout the region before or shortly after the fall of the communist regimes, anti-discrimination laws continue to be unevenly implemented across the region, and often do not include grounds of sexual orientation and/or gender identity. This makes for a rather fragile protective framework for LGBTI people in many realms, including health, housing, employment, family life, and education. Moreover, throughout the sub region of Eastern Europe, anti-gay propaganda laws have become a tool of conservative governments to limit burgeoning LGBTI movements, as well as the public's access to a comprehensive education on sexuality and gender.<sup>28</sup>

Public events on LGBTI issues such as pride parades have been marred by violence and homophobic counterdemonstrations in Georgia, Montenegro, Romania, Serbia, and Ukraine. Violence has also occurred at LGBTI community centers or at known LGBTI meeting places throughout the region. Activists in Georgia, Serbia, Kosovo,<sup>29</sup> and Moldova have all encountered resistance from their governments in previous years when applying to the city to hold public pride events and requesting police protection against ultranationalists and religious fundamentalists who interrupt such events in the name of 'traditional values'. Police and other local authorities have played an ambivalent role in assuring access to freedom of assembly in the region, sometimes protecting LGBTI activists, and at other times refusing to issue permits for LGBTI marches or failing to restrain violent anti-LGBTI demonstrators.<sup>30, 31</sup>

Lesbians, LGBTI ethnic and linguistic minorities, and lower-income LGBTI people, face heightened levels of discrimination and violence. In addition, by almost every indicator, transgender people in the region are more likely to live in poverty, be physically assaulted, and face discrimination in housing, education, and employment than their cisgender counterparts. These challenges are exacerbated by the inability of transgender people in a number of countries in the region to access gender-related medical services, including safe hormone treatments. Transgender people also face serious difficulties when attempting to alter personal documents during or following gender reassignment.<sup>32</sup>

LGBTI people are at higher risk of HIV infection for multiple reasons, including but not limited to, the increased prevalence of HIV among gay and bisexual men, increased vulnerability of lesbian and bisexual women with male partners, sex work and injection of drugs. Throughout Eastern Europe, LGBTI people do not have adequate access to prevention, treatment care and

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<sup>28</sup> US AID, *Toolkit for Integrating LGBT Rights Activities into Programming in the E&E Region*.

<sup>29</sup> As per UN Security Council Resolution 1244.

<sup>30</sup> Christine Loudes and Evelyne Paradis, *Handbook on Monitoring and Reporting Homophobia and Transphobia Incidents*, 2008, [http://www.ilga-europe.org/sites/default/files/Attachments/handbook\\_monitoring\\_reporting\\_homo-transphobic\\_crimes.pdf](http://www.ilga-europe.org/sites/default/files/Attachments/handbook_monitoring_reporting_homo-transphobic_crimes.pdf).

<sup>31</sup> Richard Polacek and Joël Déroff, *Joining Forces to Combat Homophobic and Transphobic Hate Crime: Cooperation between Police Forces and LGBT Organisations in Europe* (Brussels, Belgium, 2010), [http://www.ilga-europe.org/sites/default/files/Attachments/ilga-europe\\_cooperation\\_between\\_police\\_forces\\_and\\_lgbt\\_org\\_in\\_europe.pdf](http://www.ilga-europe.org/sites/default/files/Attachments/ilga-europe_cooperation_between_police_forces_and_lgbt_org_in_europe.pdf).

<sup>32</sup> US AID, *Toolkit for Integrating LGBT Rights Activities into Programming in the E&E Region*.

support in the context of HIV and co-infections. With the rise of social media, there are now increased opportunities for same sex encounters, but there remains little to no access to HIV prevention services. While the HIV prevalence in Eastern Europe remains relatively low, the cases of new infections among men who have sex with men (LGBTI and others) is growing exponentially. As highlighted by UNAIDS, this juncture of risk, opportunity and lack of resources illustrates a clear need to reengage the LGBTI community, civil society and governments to address the growing HIV epidemic—with emphasis on the promotion of rights and access to services.<sup>33, 34</sup>

Despite the resistance faced by the LGBTI community, most LGBTI people in the region feel that recent activism is yielding positive results, with European integration expediting the pace. Many states in the region are currently aligning their policies and laws to adhere with the process towards EU accession, which has been perceived as a positive driving force for LGBTI advocacy. Official and behind-the-scenes pressure from the EU has compelled governments in Eastern Europe to provide protection for LGBTI people from those that espouse violence against them, improve LGBTI-related laws, and alter policies to facilitate access to services for LGBTI people.

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<sup>33</sup> UNAIDS, 'Changing the Game in Europe', *UNAIDS Debrief*, 28 January 2014, <http://www.unaids.org/en/resources/presscentre/featurestories/2014/january/20140128game>.

<sup>34</sup> UNAIDS Expert Consultation, *Summary Report: Changing the Game: How Can Europe Move towards Zero New HIV Infections, Zero Discrimination and Zero AIDS-Related Deaths?*, 2014, 14, [http://www.eatg.org/gallery/169865/Report UNAIDS expert consultation - Changing the Game.pdf](http://www.eatg.org/gallery/169865/Report%20UNAIDS%20expert%20consultation%20-%20Changing%20the%20Game.pdf).

# Synergies with USAID LGBTI and rights initiatives

## *Albania*

According to USAID’s Country Development Cooperation Strategy for Albania published in November 2001, the agency seeks to work with the Albanian government in strengthening democratic institutions and fostering inclusive economic growth. These two overarching goals will better position Albania to achieve its European integration aspirations while advancing U.S. foreign policy objectives and priorities in the region.<sup>35</sup> The UNDP funding proposal aligns with Development Objective #1 (DO #1), which stipulates interventions that strengthen key institutions, promote civil society, and reduce corruption with the ensuing results radiating beyond democracy and governance and into the private sector and thus fostering inclusive economic growth.<sup>36</sup>

USAID identifies Albania’s desire to integrate into European institutions and economies, with the ultimate goal of joining the European Union, as a facilitating factor for promoting the capacity building of institutions and as a strong incentive for undertaking much needed reforms. The strategy adopted by USAID was developed in line with the National Strategy for Development and Integration 2007-2013 adopted in March 2008 by the Albanian Government’s Council of Ministers, and it lays out ambitious objectives for economic growth and development across all sectors.<sup>37</sup> While adhering closely to the NSDI, one of the Intermediate Results, IR 1.1.3, advanced by the agency is to enhance the capacities of civil society and the media as agents of change through selected reform initiatives that will allow USAID to work with NGOs to strengthen their advocacy skills and improve their efficacy in lobbying for higher standards of governance and increase citizen participation.<sup>38</sup> The role of the media is also emphasized in IR 1.2.2 to report on judicial and government sector corruption with the key objective of improving the advocacy of civil society organizations to implement key reforms and regulatory changes, especially those concerning at-risk groups.<sup>39</sup>

Regarding LGBTI rights, USAID acknowledges the scale of the issue and believes the path forward requires facilitating more rigorous research, wider data collection, and well-informed program design to help both USAID and implementing partners to engage with LGBTI people and NGOs in the challenges they face. USAID stresses the enhancement of the following capacities: organizational capacity, diversifying funding sources, improving data collection, building alliances, and support community cohesion.<sup>40</sup> USAID programming expands to areas focused on crosscutting issues such as, health, social protection, education, governance and rule of law, media, and economic growth.<sup>41</sup> The Country Development Cooperation Strategy also

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<sup>35</sup> “Albania: 2011-2015 Country Development Cooperation Strategy” (U.S. Mission in Albania: USAID, November 10, 2011), i, [https://www.usaid.gov/sites/default/files/documents/1863/CDCS\\_USAID\\_Albania.pdf](https://www.usaid.gov/sites/default/files/documents/1863/CDCS_USAID_Albania.pdf).

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*, 7.

<sup>38</sup> *Ibid.*, 21.

<sup>39</sup> *Ibid.*, 22.

<sup>40</sup> *Ibid.*, 37.

<sup>41</sup> *Ibid.*, 39.

emphasizes the training of journalists and utilizing the media to influence public opinion because an Albanian survey sample identified that 68.6% people believe homosexual relations are wrong and 85.1% of the sampled population believed that homosexual acts are morally wrong.<sup>42</sup> In Albania, the media is well established and diverse, albeit partisan, but it does serve as an outlet for public opinion that gives voice to civil society organizations and this could benefit LGBTI NGOs, most of which are beginning to coalesce into a significant force for reform.<sup>43</sup>

## *Bosnia and Herzegovina*

In Bosnia and Herzegovina, USAID views the role of civil society as essential in the country's transformation and transition out of political stagnation. The role of civil society actors has grown in recent years, but they still need outside support for funding, planning, administrative and operational functions, in addition to gaining expertise on specific issues.<sup>44</sup> The United States Government has provided large amounts of donor assistance since the Bosnian War and given its role and influence in the Dayton Peace Agreement, it remains committed to assisting the country on its path toward Euro-Atlantic integration and development as a well-governed state.<sup>45</sup>

USAID's strategy for the country has four overarching goals. These goals are to develop effective government institutions and a civil society that encourage and enable citizen involvement; to achieve accountable state-level institutions and processes that uphold the law equally for all citizens; to foster greater economic growth through investment; and to develop a vibrant society that values tolerance and diversity where women and minorities in particular can flourish.<sup>46</sup> In conjunction with these country-specific objectives, USAID's global LGBT Vision for Action seeks to improve the lives of LGBT citizens by becoming more inclusive in its development efforts to ensure that LGBT persons access and reap the benefits of their programs.<sup>47</sup> The inclusion of the LGBT population will be instrumental in the transformation of their respective societies by making each citizen equally recognized and valued, and thus it will contribute to better development results by drawing from the contributions of every member of society.<sup>48</sup>

USAID has two Development Objectives (DO) to achieve the strategic goal of making the country more stable to bring it closer to Euro-Atlantic integration. DO #1 is focused on democracy and governance that promotes functional and accountable institutions and actors that meet citizens' needs, while DO #2 is focused on economic growth centered on promoting a market economy.<sup>49</sup> For projects focused on LGBT rights, USAID will operate according to

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<sup>42</sup> "Testing the Waters: LGBT People in the Europe and Eurasia Region" (USAID, February 25, 2014), 10, <https://www.usaid.gov/documents/2496/testing-waters-lgbt-people-europe-and-eurasia-region>.

<sup>43</sup> *Ibid.*, 30.

<sup>44</sup> "Country Development Cooperation Strategy for Bosnia and Herzegovina 2012-2016" (Mission to Bosnia and Herzegovina: USAID, January 2012), 10, [https://www.usaid.gov/sites/default/files/documents/1863/BosniaCDCS\\_0.pdf](https://www.usaid.gov/sites/default/files/documents/1863/BosniaCDCS_0.pdf).

<sup>45</sup> *Ibid.*, 12–13.

<sup>46</sup> *Ibid.*, 13.

<sup>47</sup> "LGBT Vision for Action: Promoting and Supporting the Inclusion of Lesbian, Gay, Bisexual, and Transgender Individuals" (USAID, 2015), 4, <https://www.usaid.gov/sites/default/files/documents/1874/LGBT%20Vision.pdf>.

<sup>48</sup> *Ibid.*

<sup>49</sup> "Country Development Cooperation Strategy for Bosnia and Herzegovina 2012-2016," 15.

certain principles and parameters. The agency will account for country and cultural context during project implementation; it will ensure openness and a safe space for dialogue to engage stakeholders; it will further integrate LGBT issues into its work; it will support and mobilize LGBT communities; and it will build partnerships to widen and deepen the networks of allies and champions.<sup>50</sup> USAID has put these principles into action for its current and past work in Bosnia and Herzegovina.

Along with the USAID mission in Kosovo, the Bosnia and Herzegovina mission provided \$22,470 to co-finance a regional assessment report, titled “Mapping and Needs Assessment of the LGBT Community in Kosovo and Bosnia and Herzegovina,” to identify groups and NGOs that promote LGBT rights.<sup>51</sup> The agency awarded the Sarajevo Open Center with a \$34,200 grant to establish regional centers in three cities in order to protect LGBT citizens and inform the public about LGBT rights.<sup>52</sup> In one of these three regional centers, located in Banja Luka, Buka, USAID provided a \$25,000 grant to increase the center’s efforts to stop discrimination against LGBT people through an awareness media blitz on radio, TV, billboards, and social media.<sup>53</sup> This latter project highlights the importance USAID attaches to developing a strong and independent media in the countries in which it works.

A recurring objective for USAID is to build a strong relationship between civil society interests and the media in order to promote democratic development and this goal is defined as an ongoing rather than a specific development project. Media played a rather detrimental role for national cohesion in the early 90s when it stoked ethnic divisions and the resurgence of ethno-nationalist rhetoric prompted the U.S. government in 2006 to devote substantial assistance to improving the quality and independence of the media.<sup>54</sup> In particular, the agency advocates a media that is more sensitive to targeting women’s rights and raising gender awareness.<sup>55</sup> Under IR 1.2, USAID will support processes that engage people, civil society organizations, media, governmental bodies and politics to work in partnership and foster good governance.<sup>56</sup> In addition to mobilizing civil society to campaign and lobby Parliament for issues important to women, the agency will provide training on preventing gender-based violence as part of its media assistance.<sup>57</sup>

Although the agency strongly supports local organizations to become leaders in civil society efforts through DO #1, it notes that the lack of adequate education remains a tremendous challenge towards creating a more participatory and democratic society. This deficiency is attributed to factors such as the lack of political will by key stakeholders, inability to enact major reform without accompanying structural governance reform, and lack of funding for educational

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<sup>50</sup> “LGBT Vision for Action: Promoting and Supporting the Inclusion of Lesbian, Gay, Bisexual, and Transgender Individuals,” 8–9.

<sup>51</sup> “Fact Sheet: Strengthening LGBT Rights in Bosnia and Herzegovina” (USAID Mission to Bosnia and Herzegovina, 2015).

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> “Country Development Cooperation Strategy for Bosnia and Herzegovina 2012-2016,” 21.

<sup>55</sup> Ibid., 22.

<sup>56</sup> Ibid., 27.

<sup>57</sup> Ibid.

programs.<sup>58</sup> Civil society is viewed as an important player in achieving effective democracy, just governance, and democratic consolidation. USAID identifies a disconnect between government at all levels with civil society and this disengagement precludes issue-based discussions and policy reforms advocated through the monitoring reports of civil society organizations, which can ultimately hinder the advancement of LGBTI rights.<sup>59</sup> The public funds allocated for civil society actors are not transparent nor do they have an evaluation system. To remedy some of the shortcomings in the relationship, civil society and the government of Bosnia and Herzegovina established an Agreement on Cooperation between the Council of Ministers of Bosnia and Herzegovina and the NGO sector, called the Agreement, to provide a framework to help build the relationship between the NGO sector and all levels of government.<sup>60</sup> The consistent implementation of the Agreement can only enhance the results of development projects.

From May 2014 to May 2018, USAID will allocate \$2.3 million to fund the project “Equality for All: Civil Society Coalition against Discrimination” to spur grassroots civil society organizations to implement the anti-discrimination framework and thus protect vulnerable groups who are denied their human rights and equal opportunities.<sup>61</sup> Among these groups are women, national minorities, and the LGBTQ population. The project is designed to support civil society organizations in supporting individuals in court proceedings and those acting through collective lawsuits. In addition, these organizations will provide inputs and recommendations for amending the current legal framework and anti-discrimination practices to ensure greater equality in treatment.<sup>62</sup> The current work of USAID in Bosnia and Herzegovina offers UNDP various opportunities to coordinate activities that engage civil society actors and LGBT NGOs.

### *The former Yugoslav Republic of Macedonia*

As pointed out by the USAID Toolkit for integrating LGBT Rights Activities into Programming in the Europe and Eurasia Region, LGBTI groups in Macedonia are already benefitting from civil society strengthening programs and developing skills in strategic planning, financial management, communications, and advocacy – which is part of the USAID priorities in the program sector on political processes and civil society. There have been also courses in training in legal advocacy, including strategic litigation. The USAID/Macedonia’s Civil Society Project awarded grants to LGBTI NGOs for the creation of a “democracy hub” and work with LGBTI communities in provincial areas to raise public awareness about rights, promote principles of equality, and address anti-LGBT violence through local media and communications tools. Macedonian LGBTI NGOs are part of the network of ECOM and ERA. While the work with civil society is more than promising promoting LGBTI issues on the government agenda remains a challenge and the focus of support activities in the country could focus on fostering civil society-government dialogue with the help of UNDP and selected project partners.

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<sup>58</sup> Ibid., 17.

<sup>59</sup> Ibid., 21.

<sup>60</sup> Ibid.

<sup>61</sup> “Fact Sheet: Equality for All: Civil Society Coalition against Discrimination | U.S. Agency for International Development,” September 9, 2014, <https://www.usaid.gov/news-information/fact-sheets/fact-sheet-equality-all-civil-society-coalition-against-discrimination>.

<sup>62</sup> Ibid.

### *Kosovo (contingent project country)*

Kosovo is home of the “Kosovo is Ready” project, which aims to support advocacy initiatives to protect LGBTI community from discrimination and human rights violations based on sexual orientation and gender identity in the public and private sectors. The project advances and protects the civil rights of LGBTI individuals and works to prevent relapse to rights violations and discrimination. For this project, USAID collaborates with the Center for Social Emancipation. The Center carries out LGBTI public awareness campaigns in the context of human rights, documents and report cases of discrimination and hate crimes, carries out sensitivity trainings, and tries to cooperate with relevant government actors to create related standard operating procedures and legal assistance for victims of discrimination and violence. More specifically, the project focuses on developing organizational capacity, promoting enabling legislation and raising awareness about human rights of LGBTI people, including through campaigns against homophobia and transphobia. The Kosovo is Ready” project is in synergy with the proposed sub-regional project and Kosovo can be one of the countries to demonstrate leadership in partnerships with the government and civil society-driven awareness raising.

### *Montenegro (contingent project country)*

USAID reached its assistance targets for the country in 2013. Throughout 12 years of assistance, the agency completed 17 major projects in the country. An \$8 million Judicial System Reform Program from 2000-2007 helped develop an impartial, efficient, and transparent legal system, thus reducing the workload of the Supreme Court.<sup>63</sup> From 2002-2010, the Montenegro Civil Society and Advocacy Program strengthened civil society organizations which contributed to legislative change, the effective monitoring of corruption, and enhanced the political decision-making process. The Independent Media Program from 2001 to 2005 strived to build an independent, impartial, and objective media dedicated to serving the public interest.<sup>64</sup> This initiative once again highlights USAID’s strong interest in developing an independent media that can amplify the work of civil society organizations through unbiased coverage.

Overall, USAID enhanced the organizational capacities of NGOs by training more than 120 organizations; it supported changes to the NGO Law and the formation of a 170-member National NGO Coalition that drafted three key documents increasing the sustainability of Montenegro’s NGOs; and 19 NGOs succeeded in having 25 major pieces of legislation drafted or amended.<sup>65</sup> Such notable achievements will be conducive to the success of UNDP’s proposed

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<sup>63</sup> “Montenegro 2001-2013: Partnership and Progress” (Montenegro: USAID, 2013), 37, [https://www.usaid.gov/sites/default/files/documents/1863/USAID\\_Montenegro%20Partnership%20and%20Progress%201.pdf](https://www.usaid.gov/sites/default/files/documents/1863/USAID_Montenegro%20Partnership%20and%20Progress%201.pdf).

<sup>64</sup> Ibid., 40.

<sup>65</sup> Ibid., 41.

project in the country. However, USAID does highlight that LGBTI NGO activity in Montenegro appears to be more limited in scope compared to other countries in the region.<sup>66</sup>

## *Serbia*

USAID identifies societal intolerance of and discrimination against minority religious groups, ethnic minorities, persons with disabilities, and members of the lesbian, gay, bisexual and transgender community as one of the many challenges hindering Serbia's development.<sup>67</sup> There are more than 18,000 NGOs operating in Serbia and those receiving foreign funding and addressing war crimes face public criticism, extensive animosity, and hold little public confidence.<sup>68</sup> However, Serbia has some of the most active and high profile LGBTI NGOs, with a few well-established LGBT organizations that participate in regional coalitions of LGBTI organizations.<sup>69</sup>

The focus of DO #1 is to strengthen the accountability of key democratic institutions such as the judicial system, the independent oversight agencies, Parliament, and local governments. The Sub-Intermediate Result 1.1.3 focuses on increasing civil society influence and engagement through the strong public participation of government officials with constituent groups, including vulnerable groups such as youth, women, the LGBT community, and minorities.<sup>70</sup> In particular, USAID will continue to support NGOs that raise awareness of, and advocate for, gender equality and civil society organizations that advocate for gender, LGBT, and minority rights. It will seek to address related issues, including but not limited to, gender-based violence (including against members of the LGBT community), improve gender and protection mechanisms, and gender neutral regional development capacities (moving toward harmonization of national legislation with the broader international gender policy framework).<sup>71</sup> It is important to note that USAID will transition its civil society assistance delivery model to direct implementation by qualified local partners and in so doing, promote the foundation work for sectoral sustainability and the eventual phase out of USAID from the country.<sup>72</sup>

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<sup>66</sup> "Testing the Waters: LGBT People in the Europe and Eurasia Region," 30.

<sup>67</sup> "Serbia: Abbreviated Country Development Cooperation Strategy Fiscal Years 2013-2017" (Serbia: USAID, 2013), 11, <https://www.usaid.gov/sites/default/files/documents/1863/serbia-CDCS-2013-2017.pdf>.

<sup>68</sup> *Ibid.*, 16.

<sup>69</sup> "Testing the Waters: LGBT People in the Europe and Eurasia Region," 30.

<sup>70</sup> "Serbia: Abbreviated Country Development Cooperation Strategy Fiscal Years 2013-2017," 26.

<sup>71</sup> *Ibid.*, 27.

<sup>72</sup> *Ibid.*

# ANNEX 1: Background information on Albania

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## **Introduction**

In recent years, civil society has made inroads into improving the social standing and situation of LGBTI people in Albania, but much work remains to change general public opinion and prompt concrete government action. Despite Albania's ongoing accession process into the European Union, the government languishes in implementing the recommendations made by international institutions, government ministries, and NGOs. In some instances, the Ministry of Social Welfare and Youth and The Commissioner for Protection from Discrimination prod for legislative reform within the governmental system. Although Albania has comprehensive non-discrimination laws that include the protection of sexual orientation and gender identity and despite the fact that the Council of Ministers approved amendments to the labor law to prohibit similar discrimination, various legislative protections and rights are lacking. Given the inconsistency of positive action and continued inaction by the government, a number of LGBTI NGOs have built significant civil society alliances to address the needs of the LGBTI community (USAID 30).

## **Legal Landscape**

Several legislative initiatives to protect and expand the rights of LGBTI people have not been implemented due to government inaction. The Ministry of Social Welfare and Youth Strategy prepared work for the amendment to the Family Code with the aim of legalizing same-sex unions, but the Parliament did not move this initiative forward before the end of 2014. Along with Italy, the country was criticized for failing to implement an agenda for adopting a national strategy for LGBTI equality and in order to hold the government accountable, human rights violations against LGBTI people were raised before the Human Rights Council under the Universal Periodic Review (UPR) reports. The European Commission noted in October 2014 that the government had failed to establish an inter-ministerial working group to implement the Action Plan for Non-Discrimination of Sexual Orientation and Gender Identity; however, it did acknowledge that the authorities made progress in cooperating with LGBTI NGOs. The Commissioner for Protection from Discrimination also presented a report in 2014 to the Parliament's Subcommittee on Human Rights that recommended aligning law and policy with the Council of Europe's recommendations, especially in the areas of hate crime legislation, public awareness, informing victims of discrimination about their rights and other proposals. Some government initiatives have had mixed results.

In 2014, the Ministry of Social Welfare and Youth Strategy requested the input of several NGOs for the draft of the Social Inclusion Strategy covering the years 2014-2020, but the final version of the strategy remained unpublished by the end of that year. The Ministry of Education,

after signing an agreement with The Commissioner for Protection from Discrimination and NGO Pink Embassy, committed itself to assessing the prevalence of homophobic and transphobic bullying and discrimination in high schools through a nationwide study. Despite anti-discrimination legislation, trans people are consistently subjected to violence, face legal and administrative burdens when trying to access health services, education, employment, banking services, or to have their legal marital and parental status recognized, and these legal challenges include changing personal identification documents. In light of these deficiencies, civil society, through various adept NGOs, has led the way in the advocacy of LGBTI rights.

### **Role of Civil Society**

Civil society plays a prominent role in the advocacy of LGBTI rights. After years of peacefully organizing bike rides against homophobia and transphobia, the first Pride March took place without incident in the capital of Tirana on May 17, 2014 during the International Day against Homophobia and Transphobia and 60 people attended it. For a whole month in 2015 starting in May, Pink Embassy and LGBT Pro organized the Diversity Month to bring national awareness about Homophobia, Transphobia, and Biphobia through a wide range of activities that culminated in the Second Tirana Pride March on June 11. The Second Pride March was attended by over 100 people and had the attendance of various national and international organizations, institutions, and activists. In 2015, the NGOs Aleanca LGBT and ProLGBT opened a shelter for LGBTI individuals who are homeless, victims of domestic violence, or at risk of violence and it is capable of assisting eight people up to six months. The Minister of Social Welfare and Youth supports the shelter and multiple foreign dignitaries, including the Program Director of USAID Albania, attended Youth and its inauguration and it is the first of its kind in Eastern Europe. This initiative covers a need in services which NGO Pink Embassy highlighted after reporting several individual cases of violence and discrimination experienced by LGBTI people throughout 2014, including instances of sexual abuse, getting kicked out from homes by family members, and the loss of financial family support. These NGOs will continue to play a key role in furthering the rights of LGBTI people.

### **LGBTI Groups in Albania:**

- Alliance against LGBTI Discrimination
- OMSA
- PINK Embassy
- ProLGBT

## ANNEX 2: Background information on Bosnia and Herzegovina

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### Introduction

To date, laws in Bosnia and Herzegovina do not allow LGBTI people to get married, register a community, adopt children, access the same social and health insurance of a partner, and inherit property, among many other rights of which heterosexual couples are entitled.<sup>73</sup> Currently 29<sup>th</sup> of 49 European countries in terms of providing a secure legal environment for LGBTI people,<sup>74</sup> the LGBTI community in Bosnia and Herzegovina continues to face extensive challenges as they become more visible in civil society, amidst recent efforts to train police officers to respond to homophobic and transphobic hate crimes, changes in legislation to incorporate sexual orientation and gender identity, and a landmark decision by the Constitutional Court in September 2014 regarding right to freedom of assembly. For example, a public LGBTI event has yet to be held without violence or state obstruction.<sup>75,76</sup>

### Contextualization

Homosexuality was decriminalized in 1996, yet the Constitution of Bosnia and Herzegovina remains silent on recognizing same-sex marriage, limiting marriage to opposite-couples in their respective family codes.<sup>77</sup> This is a systemic issue: 56.5% of the respondents of a 2013 public opinion survey thought, “homosexuality must be cured”.<sup>78</sup> In terms of familial and societal support, a separate 2013 national LGBTI community research report found that 59.5% of an LGBTI’s broader family does not know their sexual orientation.<sup>79</sup> Moreover, in 40.7% of cases, colleagues from work, school or faculty were family that the person is an LGBTI, but almost half of them are not supportive.<sup>80</sup>

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<sup>73</sup> Jasmina Čaušević, “Numbers of Life: Analysis of the Results of the Research on Needs of LGBT Community in Bosnia-Herzegovina” (Sarajevo, 2013), 16.

<sup>74</sup> ILGA-Europe Annual Review 2015, “Bosnia and Herzegovina Chapter,” 2015.

<sup>75</sup> Ibid.

<sup>76</sup> Human Rights Watch, “Bosnia and Herzegovina: Attack on LGBT Activists,” *Human Rights Watch*, February 5, 2014.

<sup>77</sup> COWI: The Danish Institute for Human Rights, “Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity: Sociological Report: Bosnia-Herzegovina,” n.d., 9.

<sup>78</sup> Zlatiborka Popov-mom, ““ Ko Smo Mi Da Sudimo Drugima ?,”” n.d.

<sup>79</sup> Čaušević, “Numbers of Life: Analysis of the Results of the Research on Needs of LGBT Community in Bosnia-Herzegovina,” 24.

<sup>80</sup> Ibid., 31.

## The Response to Increased Visibility, Increased Threats

Over the past year, Bosnia and Herzegovina's LGBTI community has gained traction and visibility; however, this has led to an increase in attacks and threats, notably the attack on the Sarajevo LGBTI film festival that resulted in a weak judicial response to the hate crime.<sup>81</sup> In light of this response, the Sarajevo police force has now started to receive training on homophobic and transphobic hate crimes, with over 1,000 police officers trained in 2014.<sup>82</sup>

This being said, hate crimes remain rampant across the country, with many still fearful of reporting the crimes due to stigma from family, friends and society<sup>83</sup>. One particular public survey reported numbers as high as 23.5% of people have experienced violence due to their gender expression or sexual identity,<sup>84</sup> with 86.9% of examinees not reporting the violence they have suffered.<sup>85</sup>

As a potential candidate to join the EU, the European Commission has noted “effective prevention and investigation of cases of hate speech, violence and discrimination against LGBTI persons needs to be ensured.”<sup>86</sup> Hate crimes and discrimination continue to be one of the most pressing issues facing the Bosnian and Herzegovinian LGBTI community.

## Legal Landscape

Changes in laws could better reflect LGBTI rights. Currently, gender identity and sexual orientation are not clearly defined in Law on Discrimination, or the Law of Gender Equality, and both are considered grounds for hate crime in the criminal law of some regions of the Federation.<sup>87</sup> Perhaps the most pivotal decision for the LGBTI community was a landmark decision by the Constitutional Court in September 2014, which confirmed the attack on the Queer Sarajevo Festival in 2008 did in fact exemplify a failure to protect the organizer's right to freedom of assembly.<sup>88</sup> Although some progress has been made in shifting Bosnian and Herzegovinian legal landscape, it remains fragmented, fostering issues in implementing these judicial decisions and legal shifts, with judges and prosecutors often refusing their enforcement.<sup>89</sup> To strengthen the anti-discrimination framework, USAID funded a \$2.3 million project called “Equality for All: Civil Society Coalition against Discrimination” to spur grassroots civil society organizations to implement the anti-discrimination framework.<sup>90</sup>

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<sup>81</sup> ILGA-Europe Annual Review 2015, “Bosnia and Herzegovina Chapter.”

<sup>82</sup> *Ibid.*, 53.

<sup>83</sup> Liam Hoare, “Everything's Undercover, Everything's Hidden': LGBTQ Life on Europe's Frontier,” *Slate*, April 1, 2014.

<sup>84</sup> Čaušević, “Numbers of Life: Analysis of the Results of the Research on Needs of LGBT Community in Bosnia-Herzegovina,” 35.

<sup>85</sup> *Ibid.*, 37.

<sup>86</sup> European Commission, “Bosnia and Herzegovina Progress Report,” 2014, 2.

<sup>87</sup> *Ibid.*, 20.

<sup>88</sup> ILGA-Europe Annual Review 2015, “Bosnia and Herzegovina Chapter,” 52.

<sup>89</sup> Hoare, “Everything's Undercover, Everything's Hidden': LGBTQ Life on Europe's Frontier.”

<sup>90</sup> “Fact Sheet: Equality for All: Civil Society Coalition against Discrimination | U.S. Agency for International Development,” September 9, 2014, <https://www.usaid.gov/news-information/fact-sheets/fact-sheet-equality-all-civil-society-coalition-against-discrimination>.

## **Role of Civil Society**

There is a lack of awareness of what rights the LGBT peoples in Bosnia and Herzegovina are already entitled, as well as a lack of political space where the LGBT community can gather without fear of being intimidated, threatened or assaulted.<sup>91</sup> The Internet has been flagged as the only safe space for dialogue on LGBTI issues in the country.<sup>92</sup> However, in May 2015, the Joint Committee on Human Rights of the Bosnia and Herzegovina Assembly organized a session about human rights of LGBTI people—a paramount moment for the LGBTI community in Bosnia and Herzegovina, as it was the first time that the Bosnia and Herzegovina Parliament had organized such a thematic session devoted to discussing such issues.<sup>93</sup> A notable example of how this online safe space is utilized effectively can be found in the work of Mladen Lukic of Sarajevo. Through an USAID media project internship, Lukic published a groundbreaking article, “LGBT Community in Bosnia and Herzegovina: No Right to Human Rights,” on a local online news portal and was subsequently awarded the distinguished “Srdjan Aleksic” award for his report on marginalized groups in Bosnia and Herzegovina.<sup>94</sup>

### **LGBTI Groups in Bosnia and Herzegovina:**

- **Banja Luka Queer Association of Queer Activists (BUKA)**<sup>95</sup>
- **Sexual Rights Initiative**
- **Mediacentar Sarajevo Open Centre**
- **CURE Foundation,**
- **LibertaMo**

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<sup>91</sup> Hoare, “‘Everything’s Undercover, Everything’s Hidden’: LGBTQ Life on Europe’s Frontier.”

<sup>92</sup> Ibid.

<sup>93</sup> Norway: The Official Site in Bosnia and Herzegovina, “LGBT Rights on BiH Parliament’s Agenda,” May 19, 2015.

<sup>94</sup> “Fact Sheet: Strengthening LGBT Rights in Bosnia and Herzegovina” (USAID Mission to Bosnia and Herzegovina, 2015).

<sup>95</sup> ILGA-Europe Annual Review 2015, “Bosnia and Herzegovina Chapter.”

## ANNEX 3: Country profile of the former Yugoslav Republic of Macedonia

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### Introduction

In the former Yugoslav Republic of Macedonia, stigmatization, discrimination and isolation closely follow LGBT persons mostly because of the inadequate legislation, lack of information about the legal methods of protection, and the fear of possible exposure of their LGBTI status. Consequently, few LGBTI persons exercise their rights regulated by law and use the legally established services, which provide an adequate legal treatment. With little to no progress made by mainstream press, political establishments and society at large to counter the climate of general hostility encountered by the LGBTI community, the situation for the LGBTI community in Macedonia remains bleak. Stigmatization and discrimination are still present to a great extent in health, social and other public institutions and represent an obstacle in the realization and protection of LGBTI persons' rights. This is particularly evident through the anti-discrimination laws that continue to offer no protection for the LGBTI community from discrimination on the basis of sexual orientation and gender identity, the recently passed legislation bans same-sex marriage, recognizing only unions between one woman and one man, and the lack of political and legal will to challenge the indifference to hate speech and hate crime.<sup>96</sup> Although Pride events took place in Skopje for the first time without violence in June 2014,<sup>97</sup> the LGBTI community continues to be verbally and physically threatened. Most notable act of violence occurred in October 2014 when LGBTI activists were targeted in an organized attack at a café.<sup>98</sup> Cumulatively, this illustrates that great strides are necessary to ameliorate the situation for LGBTIs in Macedonia.

Having in mind the political orientation of the country towards EU integration, the national legislation concerning non-discrimination of LGBTI people and human rights in the context of equality is being built taking into consideration the EU integration requirements in rule of law and human rights. Transposition of the EU *acquis*, as well as international legal instruments, including soft law and quality principles to the national legislation can play the role of a corrective and accelerate the process of improvement of the human rights situation of LGBTI people through national legislation and practice, where the change in patterns, without such an influence, happens slowly and not easily.

### Discrimination on the Basis of Sexual Orientation

From 2008 to 2010, the Macedonian LGBTI community was protected against discrimination in employment. However, in April 2010, the Macedonian Parliament removed sexual orientation

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<sup>96</sup> ILGA-Europe Annual Review 2015, *FYR Macedonia Chapter*, 2015, [http://www.ilga-europe.org/sites/default/files/fyr\\_macedonia\\_-\\_annual\\_review\\_2015.pdf](http://www.ilga-europe.org/sites/default/files/fyr_macedonia_-_annual_review_2015.pdf).

<sup>97</sup> Ibid.

<sup>98</sup> Associated Press, 'Macedonia Gay Rights Advocates Injured In Cafe Attack', *Huffington Post*, 24 October 2014, [http://www.huffingtonpost.com/2014/10/24/macedonia-gay-cafe-attack-\\_n\\_6044178.html](http://www.huffingtonpost.com/2014/10/24/macedonia-gay-cafe-attack-_n_6044178.html).

from the list of protected grounds while revising its' anti-discrimination law.<sup>99</sup> Since that time, there have been no laws protecting LGBTI citizens in Macedonia from discrimination or hate crimes due to their sexual orientation or gender identity.<sup>100</sup> Based on a sociological study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity by the Danish Institute of Human Rights, this exclusion of sexual orientation as a ground of discrimination was viewed to be a perpetuating cause of negative stereotypes in the country.<sup>101</sup> Furthermore, the Danish Institute of Human Rights Legal Report on The former Yugoslav Republic of Macedonia, also notes that LGBTI persons are neither recognized nor protected in the national legislation. Though the basic rights and freedoms are guaranteed as a part of the overall contingent of human and civil rights, there are still no positive legal regulations, which can be applied for direct protection against insinuations of open or hidden discrimination. Despite the fact that the Constitution establishes a high standard of protection, respect and promotion of basic human rights and freedoms, none of the articles explicitly state the right to and the freedom of sexual orientation or gender identity. This policy of not having a precise definition of legal norms leaves an open space for interpreting the legislation for some of the non-defined, but also not forbidden human rights to be taken as obvious. Likewise, Article 137 of the Criminal Code uses an open legal norm "personal characteristics and circumstances" in which the freedom of sexual orientation and/or gender identity can also be interpreted. The Labor Code in the former Yugoslav Republic of Macedonia is the only piece of legislation that includes 'sex orientation' in its non-discrimination provision and covers direct and indirect discrimination, as well as harassment with reference to LGBTI belonging.<sup>102</sup>

In 2013, Special Rapporteur to UN Human Rights Council, Frank La Rue, raised concerns about the attacks that had occurred on the LGBTI community in Macedonia, noting that the government intended to revise the Criminal Code to remedy concerns regarding the hate speech provisions.<sup>103</sup> The former Yugoslav Republic of Macedonia decriminalized homosexuality in 1996, which until then was regarded as "sodomy against nature." Although the Criminal Code has made progress by way of decriminalization of the consensual homosexual conduct, it still fails to provide a coherent approach in regulation of discrimination, in so far as relevant for sexual minorities. In this regard, the Criminal Code does not provide texts against hate crimes. These remain to be addressed through initiation of amendments to the Criminal Code, which will include a definition of hate crime thus entail a number of grounds including sexual orientation and gender identity.

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<sup>99</sup> Human Rights Watch, 'Macedonia: Broaden Anti-Discrimination Bill', 3 February 2010, <http://www.hrw.org/news/2010/02/03/macedonia-broaden-anti-discrimination-bill>.

<sup>100</sup> Ibid.

<sup>101</sup> COWI: The Danish Institute for Human Rights, *Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity: Sociological Report: 'The Former Yugoslav Republic of Macedonia'*, 2010, 5, [http://www.coe.int/t/Commissioner/Source/LGBT/FYROMSociological\\_E.pdf](http://www.coe.int/t/Commissioner/Source/LGBT/FYROMSociological_E.pdf).

<sup>102</sup> The basic problem with this provision is that it uses a term that could be translated as "sex orientation" (полова насоченост), and not sexual orientation. What is the problem with the language employed in the law? Namely, 'sexual orientation' has to be distinguished from the narrow concept that the term 'sex orientation' evokes. The internationally used term 'sexual orientation' refers to sexuality, underlying the conceiving of sexuality in all of its aspects, including the biological, cultural, social, psychological and political condition (gender norms as well) in the development and the forming of sexuality. On the contrary, the term 'sex orientation' not only refers rigidly to the biological sex (and not to sexuality in its complexity), but even more, is a term that cannot be found and adjusted to any international legislation or any contemporary theory and methodology. Given the use of such an ambiguous term, the LGBT population can hypothetically be under the protection of this Law, as much as within the scope of "other personal circumstances."

<sup>103</sup> UN News Centre, 'UN Expert: Former Yugoslav Republic of Macedonia Must Not Silence Critical Media', 21 June 2013, <http://www.un.org/apps/news/story.asp?NewsID=45244#.VXaLpGDYz8F>.

## Constitutional Amendments to Marriage

In the former Yugoslav Republic of Macedonia, only married couples have the right to mutual social benefits, health insurance and other family benefits related to life in the community and working ability. The Family Law in the former Yugoslav Republic of Macedonia explicitly defines marriage as a union between a man and a woman. The legislation does not give people of the same sex the right to either marriage, or to life in a legally recognized community or partnership. Same-sex couples are not allowed to adopt children nor entitled to assisted reproduction. This was reiterated On October 12 2012, when Minister for Labor and Social policy Spiro Ristovski stated that same-sex couples should not be able to marry and children must be raised by couples of different-sexes, proposing amendments to the constitution to reflect as such.<sup>104</sup> That same year, ILGA put the country at the bottom of the list of Balkan countries in terms of legal protection for the LBGTI community, as no progress had occurred over the previous year.<sup>105</sup> On October 13, 2014, the Council of Europe, through the Venice Commission, expressed that these changes “should not exclude providing to same-sex couples the same level of legal recognition as it provides to different-sex couples”.<sup>106</sup> Human Rights Watch followed suit in a letter to the Minister of Justice Adnan Jashari requesting to appeal the proposed amendment to be in alignment with other Balkan countries.<sup>107</sup> Nevertheless, against these recommendations, former Minister Ristovski’s sentiment was translated into law with overwhelming approval in January 2015<sup>108</sup> to “‘affirm, promote and protect’ a traditional foundation of society”<sup>109</sup>: same-sex marriage was banned, marriage was now considered to be between one man and one woman and obstacles were created for future civil unions.<sup>110</sup>

## Moving Forward

One month later, the “largest political crisis in [Macedonia’s] twenty-four years of existence” began on February 9, 2015, when Opposition Leader Zoran Zaev held 33 press conferences (or “bombs”) where he published conversations between various individuals and high ranking officials, exposing that the government was illegally wiretapping the conversations of over 20,000 citizens, as well as many criminal acts committed by many high ranking officials.<sup>111</sup> This led to a significant rise in civil activity and massive protests across the country, many of which

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<sup>104</sup> The European Parliament’s Intergroup on LGBT Rights, ‘Macedonia: MEPs Worry about Increasingly Homophobic Climate’, 23 October 2012, <http://www.lgbt-ep.eu/press-releases/macedonia-meps-worry-about-increasingly-homophobic-climate/>.

<sup>105</sup> Sinisa Jakov Marusic, ‘Macedonia Gay Rights Record “Worst in Balkans”’, *Balkan Insight*, 16 February 2012, <http://www.balkaninsight.com/en/article/macedonia-placed-in-the-red-zone-for-lgbt-rights>.

<sup>106</sup> European Commission for Democracy through Law (Venice Commission), *Opinion on the Seven Amendments to the Constitution of ‘the Former Yugoslav Republic of Macedonia’* (Rome, Italy, 2014), [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)026-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)026-e).

<sup>107</sup> Human Rights Watch, ‘Letter to the Minister of Justice of Macedonia’, 24 October 2014, <http://www.hrw.org/news/2014/10/24/letter-minister-justice-macedonia>.

<sup>108</sup> Michael K. Lavers, ‘Macedonian Lawmakers Approve Same-Sex Marriage Ban’, *The Washington Blade*, 21 January 2015, <http://www.washingtonblade.com/2015/01/21/macedonian-lawmakers-approve-sex-marriage-ban/>.

<sup>109</sup> Amnesty International, ‘Macedonia: Same-Sex Marriage Ban Will Entrench Discrimination’, 20 January 2015, <https://www.amnesty.org/en/press-releases/2015/01/macedonia-same-sex-marriage-ban-will-entrench-discrimination/>.

<sup>110</sup> The European Parliament’s Intergroup on LGBT Rights, ‘FYR Macedonia Votes to Ban Same-Sex Marriage and Create Constitutional Obstacle Future Civil Unions’, 21 January 2015, <http://www.lgbt-ep.eu/press-releases/fyr-macedonia-bans-same-sex-marriage-and-creates-constitutional-obstacle-future-civil-unions/>.

<sup>111</sup> LGBTI Support Center, ‘Celebrating IDAHOT as Part of Free Macedonia’, 19 May 2015, <http://www.lgbti.mk/Home/Post/35059adb-aa1e-49a3-b875-02fa95fa19ad#.VXaMwGDYz8H>.

led to an increased presence in civil activity for the LBGTI community in Macedonia.<sup>112</sup> According to ILGA-Europe, this civil activity included presence from the Macedonian LGBTI community where the rainbow flag was flown in front of police, a pivotal moment for LGBTI advocacy in Macedonia.<sup>113</sup>

This spark of civil activity raised hopes that the LBGTI community would become more involved in the political process and advocate for LGBTI rights in the country.<sup>114</sup> In response to Opposition Leader Zoran Zaev's call to participate in a protest against the dictatorial policies of Gruevski's government, the National Network against Homophobia and Transphobia (NNHT) recently decided to support the protest, which led to a moment of understanding between NNHT, IDAHOT and the opposition, suggesting opportunities for equality for the Macedonian LGBTI community are potentially on the horizon.<sup>115</sup>

Finally, in order to strengthen the public perception that discrimination on the ground of sexual orientation and gender identity is prohibited, to make known those sections of domestic law and practice, explicitly and even implicitly guaranteeing the rights and freedoms of the LGBTI people, yet to make known the internationally imposed obligations on the former Yugoslav Republic of Macedonia as a Council of Europe member state and candidate for association with the European Union, all future actions aimed at improving the LGBTI situation in the former Yugoslav Republic of Macedonia should be extremely public awareness-raising oriented - provided that a coherent practice is developed in line with international landmark decisions reached by the UN Human Rights Committee, as well as with special reference to the obligations assumed by the decisions of the European Court of Human Rights, European Court of Justice, Copenhagen Political Criteria, and the Amsterdam Treaty.

#### LBGTI Groups in Macedonia:

- Subversive Front
- Coalition for Sexual and Health Rights of Marginalized Communities
- LGBT Support Centre
- LGBT United Tetovo

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<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

<sup>114</sup> Ibid.

<sup>115</sup> Ibid.

## ANNEX 4: Country profile of Kosovo (S/RES/1244)

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### **Introduction**

Kosovo's Constitution is one of the few in Europe prohibiting discrimination explicitly on "sexual orientation". It is also one of the countries where senior politicians have openly spoken in favor of LGBTI equality. However, there have been some reports from civil society that the enforcement on banning the discrimination based on sexual orientation remains weak.

### **Discrimination based on Sexual Orientation and Gender Identity/Gender Expression**

ILGA-Europe reports that the Bill on Anti-Discrimination, which was proposed by the government in 2013, sought to update existing law to include protection on grounds of sexual orientation and gender identity is still to be adopted, despite government promises of its passage in 2014. A Gender Equality Bill, which includes protection from discrimination on the ground of "gender reassignment", had also yet to be adopted by the end of the year.<sup>116</sup>

### **Marriage**

The President of the Constitutional Court of Kosovo Enver Hasani mentioned during a speech at a U.S. University that Kosovo's Constitution theoretically allowed for same-sex marriages (article 37 stated: "Based on free will, everyone enjoys the right to marry and the right to have a family as provided by law". Judge Hasani emphasized that this is not the current consensus among Kosovo's constitutional court judges.

### **Hate Speech**

The European Commission has released a report on Kosovo in the context of the country's potential candidacy for membership, where it expressed regrets that cases of hate speech and threats against LGBTI people have seldom been investigated, noting the need for improvement. Civil society organizations have reported that public events advocating for LGBTI rights were followed by both positive and negative comments. A staged kiss between women, published on Facebook gathered acclaims but also death threats, which were reported to the authorities. According to ILGA-Europe, "[o]nline hate speech, including death threats, also occurred after European Integration Minister Vlora Çitaku took part in a march organized on International Day against Homophobia and Transphobia."<sup>117</sup> The Center for Social Emancipation, which implements the USAID-supported project "Kosovo is Ready", reported predominance of negative or hateful comments on LGBTI issues/events in virtual space.

### **Hate Crimes and Bias-motivated Violence**

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<sup>116</sup> ILGA-Europe, Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe, 2015

<sup>117</sup> Ibid.

The Pristina Court of First Instance ruled in the case on an online news site whose launch was attacked in late 2012. Three individuals received suspended fourteen-month prison sentences, which according to some civil society actors were not sufficient.

### **Police and Law Enforcement**

The Center for Social Emancipation has trained over 80 police officers, prosecutors, and judges on issues related to sexual orientation and gender identity.

### **Freedom of Assembly**

The Center for Social Emancipation held two photo exhibitions depicting members of the LGBTI community. According to the Center and ILGA-Europe the Kosovo, police provided adequate protection to both events. The Center and other civil society partners carried out a street rally on the International Day against Homophobia and Transphobia. NGOs reported the rally “gathered 60 participants, including representatives from the government, international institutions, and several embassies. The police provided optimal protection to the event.”<sup>118</sup>

### **Human Rights Defenders**

The Center for Equality and Liberty is a new NGO focusing on human rights, sexual orientation and gender identity.

### **LGBTI Groups in Kosovo**

- **Center for Social Emancipation (QESh)**
- **Center for Equality and Liberty**

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<sup>118</sup> Ibid.

## ANNEX 5: Background information on Montenegro

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### Introduction

Montenegro decriminalized homosexuality in 1977. Although there has yet to be legal recognition of same-sex marriage, in 2012, the government promised some form of legal recognition to transpire.<sup>119</sup> Due to recent shifts in the legal landscape of LGBTI rights in Montenegro, the country is now ranked 18<sup>th</sup> out of 49 European countries.<sup>120</sup> Amidst this success, discrimination towards the LGBTI community persists, although efforts have been made by the police force to defend LGBTI activists during public events and anti-discrimination laws include sexual orientation and gender identity as prohibited grounds of discrimination as of 2010.

### Presence in Civil Society

#### *Pride Parade*

The first pride parade took place in October 2013.<sup>121</sup> It was adequately support by authorities, with violent anti-gay protesters arrested by police.<sup>122</sup> A June 2014 Pride march was scheduled, but then postponed after consulting with police authorities. In November 2014, another pride march was organized, but this time the location was kept secret until the last minute. Two hundred participants marched without incident under the protection of 2,000 police officers, with a police to protester ratio of 100:1.<sup>123, 124</sup>

#### *Attacks on LGBTI Organizations and Centers*

The opening of the first LGBTI community center in Podgorica was subject to 24 attacks,<sup>125</sup> with none of the perpetrators having been identified or prosecuted. Additionally, the LGBTI Forum Progress recorded 218 incidents of hate crime, hate speech and discrimination against LGBTI individuals between January 2013 and May 2014.<sup>126</sup> The European Commission, in its report speaking to Montenegro's progress towards accession, highlighted that efforts to educate both the judiciary and police force must continue, as well as "ongoing anti-discrimination

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<sup>119</sup> Tris Reid-Smith, 'Montenegro Promises Gay Pride and Some Marriage Rights', *Gay Star News*, 13 November 2012, <http://www.gaystarnews.com/article/montenegro-promises-gay-pride-and-some-marriage-rights131112>.

<sup>120</sup> ILGA-Europe Annual Review 2015, *Montenegro Chapter*, 2015, [http://www.ilga-europe.org/sites/default/files/montenegro\\_-\\_annual\\_review\\_2015.pdf](http://www.ilga-europe.org/sites/default/files/montenegro_-_annual_review_2015.pdf).

<sup>121</sup> European Commission, *Montenegro Progress Report*, 2014, 3, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-montenegro-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-montenegro-progress-report_en.pdf).

<sup>122</sup> Ibid.

<sup>123</sup> Agence France Presse, 'LGBT Activists March on the Path to EU in Montenegro', *Deutsche Welle*, 2 November 2014, <http://www.dw.de/lgbt-activists-march-on-the-path-to-eu-in-montenegro/a-18035367>.

<sup>124</sup> Dusica Tomovic, 'Montenegro Gay Marchers Show Pride Under Pressure', *Balkan Insight*, 2 November 2014, <http://www.balkaninsight.com/en/article/montenegro-s-gay-marchers-to-show-pride-under-pressure>.

<sup>125</sup> ILGA-Europe Annual Review 2015, *Montenegro Chapter*, 121.

<sup>126</sup> Ibid.

campaigns in schools, aimed at students and teachers” to counter the widespread hostility towards sexual diversity.<sup>127</sup>

## **Legal Recognition**

### *Landmark Judgments*

A recent judgment found that discrimination based on sexual orientation had occurred in a high school, after the school management had replaced photographs from an art exhibit after the artist declared his sexual orientation.<sup>128</sup> In April 2015, the court ruled this was a violation of the anti-discrimination law, which included grounds of sexual orientation, ordering the return of the photographs to the exhibit.<sup>129</sup> Subsequently, the Faculty of Medicine at the University of Montenegro has responded by adopting a policy against discrimination, with trainings planned for staff and students.<sup>130</sup>

### *Lack of Response from Ombudsman*

On International Human Rights Day—December 10, 2014—LGBTI activists disrupted a speech by the Ombudsman in protest of the fact that the institution had ignore cases brought before the office related to homophobia and Transphobia.<sup>131</sup> The European Commission has also flagged the inefficiency of the Ombudsman’s office, pointing to limited institutional resources.<sup>132</sup>

### *Legal Gender Recognition*

A protocol for legal gender recognition was established for the first time, with several individuals beginning the procedure. This being said, the procedure is still medicalized and involves counseling, hormonal therapy, and surgery and sterilization as a final step. Without this procedure, an individual is not allowed to change the gender on their documents.<sup>133</sup>

### *Asylum*

A gay Iranian man sought asylum and Montenegrin nationality on the grounds that he had been sentenced to death. For the first time, the Ministry of Interior approved the request on the grounds that someone feared prosecution based on their sexual orientation. Initially, explicit questions were asked about his sexuality, but they stopped once they had consulted with NGO LGBT Forum Progress.<sup>134</sup>

## **LGBTI Organizations in Montenegro:**

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<sup>127</sup> European Commission, *Montenegro Progress Report*, 46.

<sup>128</sup> ILGA-Europe Annual Review 2015, *Montenegro Chapter*, 121.

<sup>129</sup> *Ibid.*

<sup>130</sup> *Ibid.*

<sup>131</sup> *Ibid.*, 122.

<sup>132</sup> European Commission, *Montenegro Progress Report*.

<sup>133</sup> ILGA-Europe Annual Review 2015, *Montenegro Chapter*.

<sup>134</sup> *Ibid.*, 121.

- **LGBT Forum Progress**
- **Queer Montenegro**
- **Juventas**

## ANNEX 6: Background information on Serbia

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### Introduction

Households headed by same-sex couples continue to not be privy to the same legal protection and social provisions as opposite-sex couples in Serbia, although both male and female same-sex activity is legal in the country. Currently 25<sup>th</sup> of 49 European countries in terms of providing a secure legal environment for LGBTI people,<sup>135</sup> many challenges still exist for the LGBTI community in Serbia, amidst recent efforts that resulted in successful changes in legislation and an incidence-free Pride parade in Belgrade in September 2014.

### Background

Homosexuality was decriminalized in Serbia in 1994. Yet, in 2006, the Serbian constitution defined marriage as a union between a man and a woman, with no mention or prohibition of civil unions or domestic partnerships. Two years later, in March 2008, a public opinion survey illustrated that 70 per cent of those interviewed considered homosexuality a sickness and 50 per cent thought “homosexuality is very dangerous for society” and the state should work towards its prevention.<sup>136</sup> Additionally, 20 per cent of those surveyed were ready to support or justify violence towards same-sex couples.<sup>137</sup>

The following year, in 2009, the Serbian Parliament approved an anti-discrimination law that prohibited discrimination on the grounds of sexuality and sexual orientation, among others. And in December 2010, gay rights activist Boris Milicevic was elected to the board of the Socialist Party of Serbia in December 2010, illustrating what he said to be “great progress [...] in the political landscape”—particularly after 40 per cent surveyed in a public opinion poll two years prior said that “if a party I vote for started talking about the rights of homosexuals, I would stop voting for it.”<sup>138</sup> Serbian law further changed in January 2012 to allow its citizens to change their sex in a state hospital with the support of public funding.<sup>139</sup>

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<sup>135</sup> ILGA-Europe Annual Review 2015, *Serbia Chapter*, 2015, [http://www.ilga-europe.org/sites/default/files/serbia\\_-\\_annual\\_review\\_2015.pdf](http://www.ilga-europe.org/sites/default/files/serbia_-_annual_review_2015.pdf).

<sup>136</sup> COWI: The Danish Institute for Human Rights, *Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity: Sociological Report: Serbia*, 2012, [http://www.coe.int/t/Commissioner/Source/LGBT/SerbiaSociological\\_E.pdf](http://www.coe.int/t/Commissioner/Source/LGBT/SerbiaSociological_E.pdf).

<sup>137</sup> Ibid.

<sup>138</sup> Ibid.

<sup>139</sup> ILGA-Europe Annual Review 2015, *Serbia Chapter*.

## The 2014 and 2015 Belgrade Pride Parades

Amidst these efforts, Amnesty International flagged Serbia as one of the countries where there continued to be a significant lack of will to tackle these challenges in May 2014, pointing to the ban of Pride marches by public authorities on the basis of violent threats from homophobic groups<sup>140</sup>. Later that year, a Pride parade successfully occurred in the capital city of Belgrade in September 2014, after being banned since 2011.<sup>141</sup> Several politicians and high-level personalities joined the march, illustrating a shift in support towards the LBGTI community.<sup>142</sup> In September 2015, both Pride and Trans Parade were held in Belgrade. However Serbian riot police had to shut down the city center to ensure security of several hundred gay supporters.

## Current Situation

Research by NGOs has indicated that six political parties and movements have since adopted a positive approach towards LBGTI issues.<sup>143</sup> Yet, as of 2015, bias-motivated speech towards the LBGTI community in Serbia remains unpunished, with bias-motivated violence appearing to be condemned more frequently than before<sup>144</sup>.

In October 2014, the government planned the implementation of the *National Strategy for Prevention and Protection from Discrimination*<sup>145</sup>. Running from 2014-2018, this strategy will be monitored by a provisional working body set up by the government and will speak to multiple issues, such as education and training, employment, family, healthcare, social welfare and housing. As part of the anti-discrimination component of this strategy, LBGTI NGO *Labris* will begin training Ministry of Interior staff on homophobic and transphobic hate crime issues in Serbia.<sup>146</sup>

## LBGTI Group at Highest Risk

Of those in the LBGT community in Serbia, men who have sex with men (MSM) are particularly vulnerable to discrimination and most often socially excluded. The MSM community is in fear of losing their social, political and professional position due to homophobia,<sup>147</sup> which in turn, hinders access to social, health and psychological services as service providers lack an understanding and knowledge about how to best serve the needs of this community. In Serbia,

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<sup>140</sup> Amnesty International, 'Homophobia Still Tolerated by Governments around the World', *Amnesty International*, 16 May 2014, <https://www.amnesty.org/en/articles/news/2014/05/homophobia-still-tolerated-governments-around-world/>.

<sup>141</sup> <http://www.bbc.com/news/world-europe-29399404>

<sup>142</sup> ILGA-Europe Annual Review 2015, *Serbia Chapter*.

<sup>143</sup> *Ibid.*

<sup>144</sup> *Ibid.*

<sup>145</sup> *Ibid.*

<sup>146</sup> *Ibid.*

<sup>147</sup> United Nations Development Program, *Report Exploring the Link between MSM, Homophobia and HIV/AIDS in Countries: Bosnia and Herzegovina, Croatia, Montenegro and Serbia* (Zagreb, Croatia, 2010), <http://www.undp.hr/upload/file/266/133038/FILENAME/MSM.pdf>.

MSM are among the largest number of people diagnosed with HIV per year.<sup>148</sup> Although the epidemiological evidence originating from Serbia is not unordinary for the region, what is alarming is the rise of transmission in the MSM community over the last ten years.

## **Moving Forward**

In March 2015, the Members of European Parliament commended the Serbian government for their support of the Belgrade Pride without any incidents.<sup>149</sup> However, they furthered that a “more visible political commitment to promoting a culture of respect” was lacking towards the LBGTI community, which included awareness and protection of their rights.<sup>150</sup> A Ministry of Interior liaison officer for LBGTI issues was appointed and heralded as a step in the right direction.<sup>151</sup> Moving forward, there is also ample work to be done in terms of legal gender recognition, of which the government and NGOs are making efforts to update, among other areas, such as family, equality and hate crime/speech law and asylum.<sup>152</sup>

### **LGBTI Organizations:**

**Gay Lesbian Info Centre**

**Labris**

**Duga**

**Gay Straight Alliance**

**Gayten LGBT**

**Queeria Center**

**Egal**

**GLIC**

**YUCOM**

**Comeout**

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<sup>148</sup> *Epidemiological report, November 2011, Institute of Public Health of Serbia, Dr Milana Jovanovic Batut; it is important to highlight that according to the WHO, men who have sex with men are nearly 20 times more likely to be infected with HIV than general population.*

<sup>149</sup> The European Parliament’s Intergroup on LGBT Rights, ‘European Parliament Reviews Progress on LGBTI Rights Kosovo, Albania, Montenegro and Serbia’, *The European Parliament’s Intergroup on LGBT Rights*, 11 March 2015, <http://www.lgbt-ep.eu/press-releases/european-parliament-reviews-progress-on-lgbti-rights-kosovo-albania-montenegro-and-serbia/>.

<sup>150</sup> ILGA-Europe Annual Review 2015, *Serbia Chapter*.

<sup>151</sup> *Ibid.*

<sup>152</sup> *Ibid.*

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