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Fourth COUNTRY REPORT: Bosnia and Herzegovina (BiH)

Update Thematic Dossier #4: Youth Equal Opportunities

Topic to be explored:

Equal Rights and Opportunities for LGBTI People

INTRODUCTION

Expressing the sexual orientation in public or in private life in socialist Bosnia and Herzegovina was not only socially undesirable, but also punished by law. According to the Criminal Law of Bosnia and Herzegovina (1977) sexual relationship of two men had a characterization of 'unnatural sexual intercourse', while intercourse between women was omitted, like in most European countries. The punishment for same-sex intercourse was up to one year in prison, even if it happened under the privacy of their home. After the break-up of Yugoslavia, new Criminal Laws were adopted in both Bosnian entities – Republic of Srpska and Federation of Bosnia and Herzegovina, which scrapped everything mentioning a sexual intercourse of same-sex couples.

War in Bosnia and Herzegovina (1992-1995) had a huge, negative, impact on entire society in BiH, including the position of LGBT population. "During that period, men were accepting the role of warriors and defenders of homes, while women took the role of house-wives, leading to the society's retraditionalization and introduction of religion as key identification moments."¹

In February of 2004, the Association Q from Sarajevo was registered as the first LGBT association in BiH, which made BiH the last country in former Yugoslavia to set up one, significantly lagging behind Serbia, Croatia and Slovenia. The first major and central event for LGBT activism in BiH in 2007 was Queer Sarajevo Festival which was violently interrupted by the football fans and members of Wahhabi movement. After the attack, Queer Sarajevo Festival becomes a source of great trauma and fear for LGBT community and most of the activism is stopped. Soon after, the Association Q stops functioning. Today, there are several associations and groups that work on promotion of LGBT rights in BiH, and those are: Sarajevo Open Centre, Okvir, Foundation CURE and Equilibrium from Banja Luka, as the first association formed outside Sarajevo.

LEGISLATION

Bosnia and Herzegovina does not recognize same-sex marriage and civil partnership for same-sex couples. The Family Codes of both entities in Bosnia and Herzegovina limit the marriage to a man and a woman. The prohibition of discrimination on grounds of sexual orientation in BiH was first introduced in 2003 by adopting the Law on Gender Equality of Bosnia and Herzegovine which prohibits discrimination based on gender and sexual discrimination.

Better protection for LGBT people from discrimination was achieved in 2009 when the Law on Prohibition of Discrimination in Bosnia and Herzegovina, which explicitly mentions "gender, sexual orientation and gender expression".

¹ Citanka LGBT ljudskih prava, Aida Spahic, Sasa Gavric, Sarajevski Otvoreni Centar, 2012

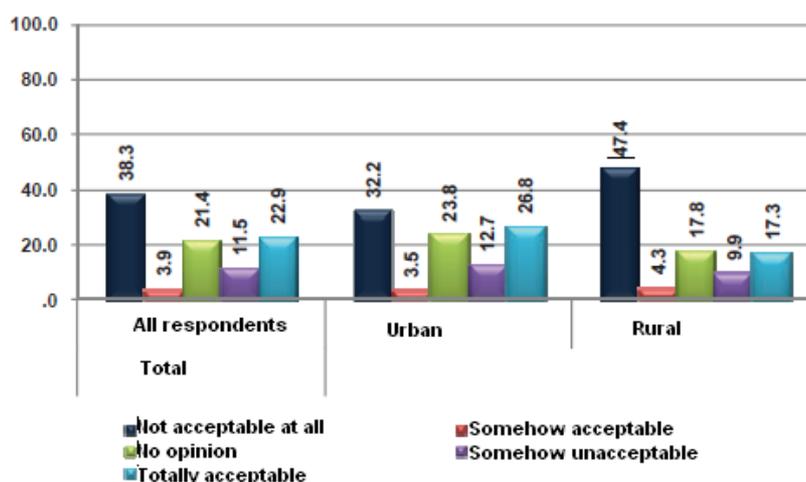
PUBLIC OPINION

The latest significant survey about public opinion in BiH on the topic of homophobia was conducted during May of 2013 by Foundations Heinrich Boll and CURE, and Sarajevo Open Centre, in order to ascertain the degree of homophobia in BiH society. Goals of the study are cognitive and pragmatic, because, in addition to gain insight into the general the structure of the observed phenomenon and its explanation, it opens up opportunities for different forms of activities in order to reduce homophobia in society.

The main results of the study indicate that, in general, there is a low level of sensitization the general population towards LGBT people - a small number of familiar problems which this population faces as well as legislation related to this area. However, there can be found rudiments of tolerance because more than 90% of respondents would not exercised physical or verbal violence against the population, and $\frac{3}{4}$ of it would not watched the violence passively, ie they would help the victim.² Other results were not so positive.

Chart number 1: In your opinion, how acceptable is to have a neighbor who is homosexual?

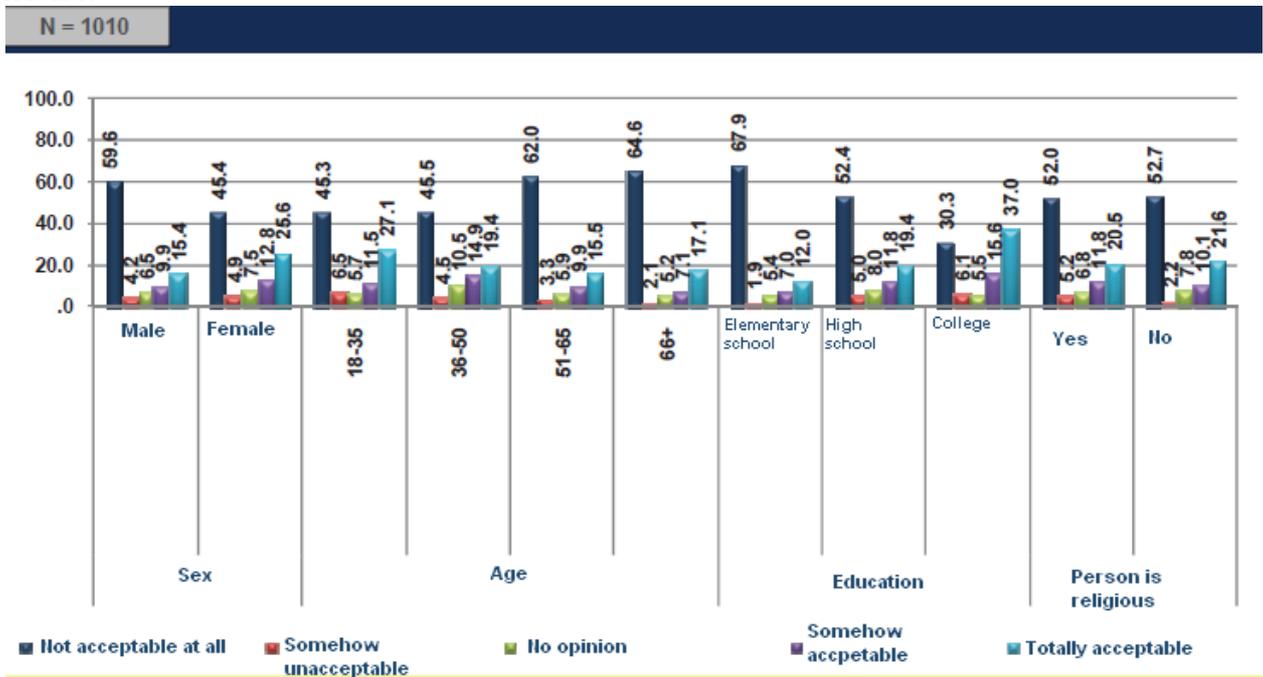
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It is obvious difference between respondents who live in urban and rural areas. People living in urban areas are generally more accepting to the idea of having a neighbor with homosexual orientation, than people living in rural areas. This conclusion is confirmed through most of the questions in the survey.

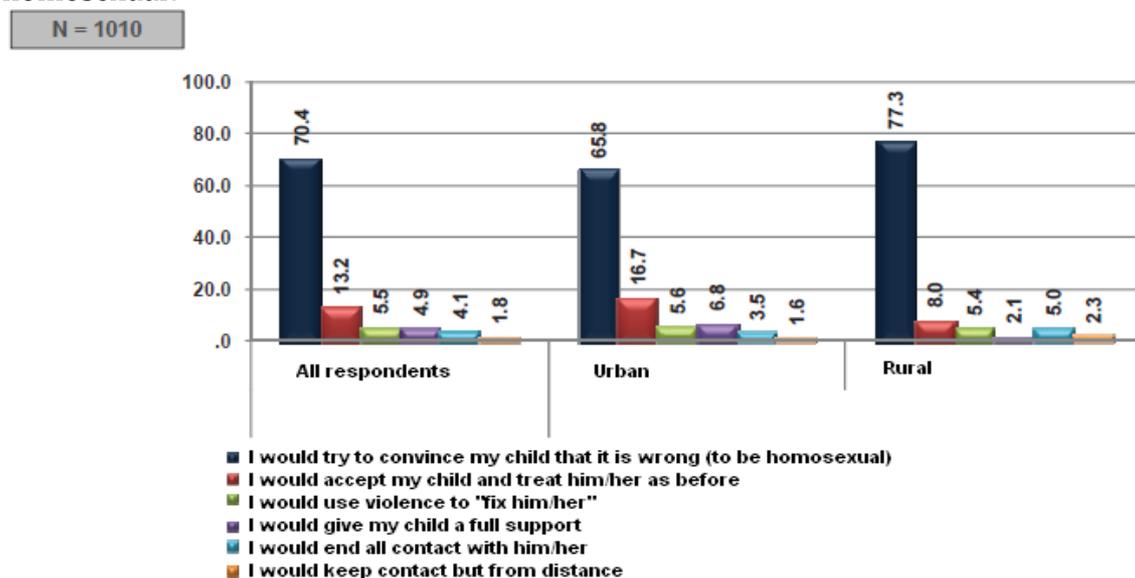
² Who are we to judge? Zlatiborka Popov-Momcinovic, Foundations Heinrich Boll and CURE, and Sarajevo Open Centre

Chart number 2: In your opinion, how acceptable is to have a homosexual friend?



Most of the questions conducted through this survey show that female, younger than 35 and with college degree respondents are tending to be more acceptable to the idea of having a homosexual friend, than male, older than 35 and with elementary and high-school degree respondents. As earlier, this conclusion can be made for most of the asked questions related to the LGBT rights in BiH.

Chart number 3: How would you react if you found out your child was homosexual?



As the chart number three shows, most people in BiH would not accept their children if they were LGBT or would have struggled with it. Large majority of them would try to 'fix' their children's sexuality, and some would even use violence to do that.³

RECENT DEVELOPMENT

When we speak about the rights of LGBT people in BiH in recent period, we can conclude that the following important events occurred:

- Political stagnation, caused by the election campaign, post-election negotiations, and political instability have brought about a situation in which, from the spring until the end of 2014, it was impossible to implement any relevant advocacy initiatives, particularly where the amending of legislation or adoption of strategic documents were concerned;
- The election campaign, political parties' programs, and the processes in parliaments and governments have shown that the rights of LGBT people are politically irrelevant. Not a single party recognized this as a relevant problem, and no solutions were offered. Until this point, there has not been a single discussion about the rights of LGBT people at any governmental or parliamentary session;
- The Federation of BiH was not able to change the FBiH Criminal Code, despite the fact that there were two initiatives in the parliament. The Criminal Code should be amended to incorporate provisions related to the criminal offenses of hate crimes and hate speech;
- Strategic documents that would have recognized the state of the rights of LGBT people and offer solutions and measures for the improvement of the rights of LGBT people were not adopted. The Institution of Human Rights Ombudsman of BiH failed to draft a special report on the state of the rights of LGBT people. No other national documents, such as a strategy on combating discrimination or a strategy for improving the rights of LGBT people were never even discussed.
- Activism for the rights of LGBT people flourished. In addition to the existing initiatives and organizations (for example, Q Sport or Okvir Association), which intensified their work, a number of new activist nuclei were formed. A Banja Luka based association of queer activists was registered in 2014, and implemented a number of campaigns and carried out various activities. The Association LibertaMo is currently in the process of registration in Mostar, and the informal TANKA initiative is active in Tuzla;
- In comparison to 2013, violence against LGBT people increased. LGBT individuals, as well as LGBT activists, became the targets of more frequent attacks. However, during 2014, two judgments were delivered that confirmed the violation of the rights of LGBT people. A judgment of the Constitutional Court

³ Who are we to judge? Zlatiborka Popov-Momcinovic, Foundations Heinrich Boll and CURE, and Sarajevo Open Centre

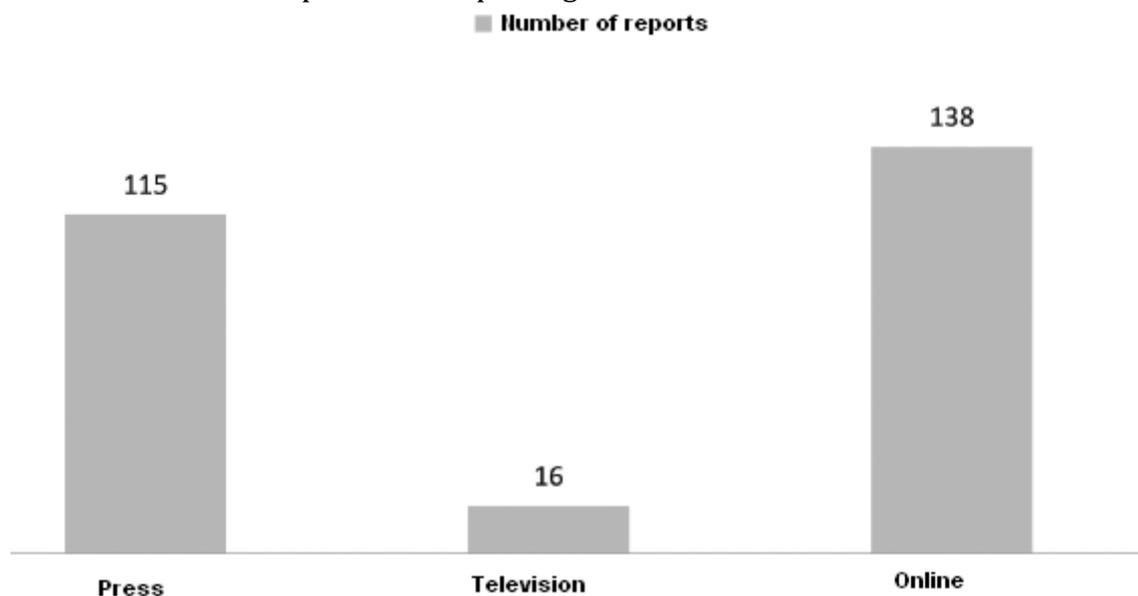
of BiH confirmed that the right to gather in public was violated in the case of the Queer Sarajevo Festival. This is the first decision of the Constitutional Court dealing with the rights of LGBT individuals in BiH.⁴

VISIBILITY AND REPRESENTATION OF LGBT PEOPLE THROUGH THE MEDIA

As a member of Council of Europe, Bosnia and Herzegovina has accepted all international conventions about human rights, so they became a part of common law, which is affirmed by the Constitution of BiH, as well as the constitutions of both entities. Law about communication in BiH defines regulatory principles of telecommunication and broadcasting, which include protection of freedom of expression and differences in opinion, widely accepted standards of behavior, nondiscrimination, fairness, accuracy and bias.

Hate speech in BiH legislation is regulated by the Criminal Code of the Federation Bosnia and Herzegovina (Article 363) and the Criminal Code of Brcko District (Article 357). The term hate speech includes all forms of expression which spread, incite, justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility towards minorities.

Chart number 4: Comparison of reporting in BiH in 2014



According to a research conducted in 2014⁵, there were 555 articles in printed media in BiH. Most of them were covering LGBT issues in the world and in the

⁴ Pink report – annual report on the state of the human rights of LGBT people in Bosnia and Herzegovina in 2014

region (440 articles), while only 115 articles were about the LGBT issues in BiH. Out of all published articles, 67.5% were neutral, 20.5% were negative and 12% were positive toward the rights of LGBT population. During the same period of observation, there were 46 television reports and 294 news published via online media channels. The percentages about the place and political correctness are similar to the percentages concerning press-media.

A GOOD PRACTICE - Coordination with the Sarajevo canton's Ministry of Interior

Since 2012, the Sarajevo Canton police have been cooperating with civil society organizations focused on the rights of LGBT individuals. Over the course of 2014, in cooperation with the Sarajevo Canton police, Sarajevo Open Centre implemented educational and informational activities about hate crimes motivated by sexual orientation and/or gender identity. Such activities constituted part of the permanent training program for police officers in 2014, and were offered with assistance from Sarajevo Open Centre.

Over 1000 police officers attended these trainings. The Sarajevo Canton Ministry of Interior appointed contact persons (police officers) for work with the LGBT victims of crime in four of the city's police stations: Stari Grad, Centar, Novo Sarajevo, and Novi Grad. This proved encouraging to LGBT individuals who were victims of hate crimes based on their sexual orientation or gender identity, as they could now report incidents to the police. This had previously not been the case due to fear of secondary victimization and forced outing. The best practices of the Sarajevo Canton police were recognized by the European Commission, which noted these developments in its strategic document accompanying the BiH Progress Report for 2014.¹ The UN Human Rights Council also recognized the program during its universal periodic review of human rights in BiH.

Sarajevo Open Centre (SOC) shared this example of best practices in cooperation with the Sarajevo Canton police with other organizations that deal with the human rights of LGBT individuals in Slovenia and Serbia (Škuc LL and Gayten). These organizations then applied these experiences to their work and communities.

Although this project was a considerable success, its scope remains limited. During 2015 and 2016, Sarajevo Open Centre will continue working with police officers from other cantons in the Federation of BiH (FBiH), and in the Republika Srpska (RS) in order to transfer the best practices applied by the Sarajevo Canton police. SOC will also continue with necessary educational trainings for prosecutors and judges regarding the specificities of hate crimes and instances of discrimination based on sexual orientation and gender identity. In this way,

⁵ Towards best practices 2: Media reporting in 2014 on LGBT issues in Bosnia and Herzegovina, Kristina Ljevak, Lejla Huremović, Sandra Zlotrg

we will strengthen all participants involved in the process of prosecuting violations of the human rights of LGBT individuals.⁶

PERPETUUM MOBILE AND LGBT RIGHTS

Perpetuum Mobile has a long tradition of supporting equal rights and opportunities for all young people, regardless of religion, ethnicity, race, gender identity and sexual orientation. Perpetuum Mobile supported foundation of first LGBT organization in Banja Luka and Republic of Srpska called Banjaluka's association of queer activists (B.U.K.A.), by providing them with resource centre for meetings before they managed to find their own facilities.

Perpetuum Mobile strives to include the concept of equal rights for LGBT population through different projects, such as Young Men Initiative and Academy for political leaders. More than 20 workshops that are done in schools by young leaders from Perpetuum Mobile's Be a Man Club are dedicated to Sexual and reproductive health, Preventing and living with HIV/AIDS and From violence to peaceful coexistence. The last unit includes 11 workshops on topics of sexual violence, understanding homosexuality and homophobia in the youth environment. Those workshops are trying to make participants identify with a person who is a homosexual, and to make them more sensitive and to influence on their attitudes related to homophobia.

Academy for political leaders in BiH is, now, a 9-year-old program that each year gathers young politicians from different political parties, municipalities and with different religious and ethnic background. Each year, the Academy program consists of several modules, and one of them is dedicated to Human rights in Bosnia and Herzegovina. Perpetuum Mobile tries to sensitize young politicians about the issues of equal rights for women, minorities and LGBT population.

⁶ Pink report – annual report on the state of the human rights of LGBT people in Bosnia and Herzegovina in 2014