

Written Contribution on the position of LGBTI persons to the 3rd CYCLE OF THE UNIVERSAL PERIODIC REVIEW of REPUBLIC OF ALBANIA

SUMMARY STATEMENT

ERA – LGBTI Equal Rights Association for Western Balkans and Turkey in close partnership with its members: Aleanca LGBT, PINK Embassy Albania, Pro LGBT and Streha; and with technical support from ILGA World submitted the Written Contribution to the 3rd Cycle of the Universal Periodic Review of Republic of Albania, which focuses on the position of LGBTI persons in the country.

During Cycle II of the UPR Albania received 3 SOGI recommendations. Argentina recommended¹ to study the possibility of strengthening the measures to fight discrimination, in order to eradicate the trend and/or the dissemination of stereotypes that lead to discrimination on the grounds of sexual orientation. The authorities have been working modestly in this regard. Few campaigns and awareness meetings have been organised by the LGBTI organisations but mostly the Government, especially at the local level, has shied away from actively working to eradicate stereotypes that lead to discrimination.

France recommended² to intensify efforts in the fight against all forms of discrimination, in particular against lesbian, gay, bisexual, transgender and intersex persons (LGBTI) and minorities, by fully implementing the Law on Protection against Discrimination (LPD), while Portugal recommended³ to continue to take steps to fully implement the LPD in relation to discrimination based on sexual orientation and gender identity (SOGI). In overall, the authorities and the Commissioner for Protection from Discrimination (CPD) have been working to fully implement the law, but yet because of discrimination, lack of training and general awareness many institutions are far from implementing the law. Health care professionals, teachers and police largely remain uninformed on the legislation and how to implement it.

On 7 May 2015, the Albanian Parliament passed a resolution entitled “On Protection of Rights and Freedoms of persons belonging to the LGBT community in Albania” (the Resolution). The Resolution details a number of legal and policy reforms that the Albanian government should undertake to improve the living conditions of LGBTI people, including the adoption of a national LGBTI action plan, diversity training for teachers and greater support for the Ombudsman and CSOs. Ever since only few trainings have taken place by organisations like Council of Europe and LGBTI CSOs, training teachers and students, while Government lacks initiative to take steps for the implementation of the Resolution and the implementation of the LGBTI National Action Plan 2016-2020.

Albania didn’t take any steps to amend the Family Law regarding cohabitation of the LGBTI persons, despite the fact that the Government drafted legal proposals for the changes to take place and LGBTI CSOs called for concrete steps to be taken on the matter. Even though the Labour Code was amended in December 2015 to prohibits discrimination in employment and professions on the grounds of SOGI, reality shows that LGBTI persons face high levels of discrimination by employers.

During the previous review of Albania, Montenegro highlighted⁴ the appointment of the CPD. Based on the report of the CSOs and based on the very small number of reports to the CPD, the lack of trust of LGBTI persons to report to this institution is obvious. In 2015, out of hundreds of cases before the CPD, four complaints of discrimination on the basis of SOGI were processed.⁵

¹ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 101.

² Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 105.13.

³ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 105.14.

⁴ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 83.

⁵ Commissioner on the Protection from Discrimination (2015) *Annual Report 2015* (Komisioneri per Mbrojtjen nga Diskriminimi Raport Vjetor), <http://www.kmd.al/?fq=brenda&gj=gj1&kid=142>

Despite the provision of Council of Europe's Manual on detecting Hate Crimes on grounds of SOGI and trainings, the police force remains largely untrained and uninformed on LGBTI rights and there is still need to further increase their capacities. Violent attacks are underreported in Albania in part due to police abuse or discrimination. In 2013, the Albanian Parliament amended the Penal Code⁶ to specifically define crimes motivated by SOGI as hate crimes. However, the number of reported hate-crime cases is very low and data collection on hate crimes is still lacking⁷. Acceptance of LGBTI persons remain low, particularly in rural areas. Hate speech and discriminatory language continue to be a problem in the media, especially online media.

Though there is an acknowledgement of the advances that Albania has made in the past years with regards to LGBTI issues in education, CSOs have been vital to fill the gaps that Albania has not implemented. Teachers and educators remain largely uninformed on LGBTI rights and the school curricula is not improved. The Local Education Authorities (LEA) have not developed anti-discrimination policies and staff trainings targeting bullying and violence against LGBTI pupils. Reports reveal that the use of homophobic slurs in addition to bullying against LGBT students is frequent in Albania.

Trans people in Albania do not fully enjoy rights related to their gender identity and face discrimination and violence. There is no legal gender recognition in the country (including the right to change their name or gender mark) or other laws exclusively applicable to trans individuals. There is no hormone therapy and no sex affirmation procedures. Media uses profiles of trans persons to provide a picture of poverty and sex work for the whole community. There are no provisions that specifically address the human rights of intersex people at any level in the system. There is a total lack of services for them and they remain invisible within Albanian society.

Albania still has no adequate and accessible therapy for all individuals living with and/or in risk of HIV and AIDS, as it has only one ambulatory outpatient clinic for treatment of HIV, and lack of antiretroviral medication throughout the year.

Recommendations

Amend Family Law to provide legal recognition of same-sex partnerships and adopt legal provisions that will allow legal gender recognition to trans individuals within one year;

Strengthen the position of Commissioner for Protection from Discrimination and ensure that LGBTI persons are reporting cases of discrimination based on SOGI;

Improve the position of law enforcement to combat violence and hate crimes based on SOGI by building stronger links with CSOs and the LGBTI community, as well as by providing training programs about SOGIESC to all members of law enforcement, ensure that legal provisions related to hate crimes are implemented and introduce official data gathering of hate crimes within next three years;

Ensure that LGBTI individuals are protected from bullying, discrimination and inaccessibility within educational system by reviewing school curricula and introducing training programs about sexual orientation, gender identity and expression and sex characteristics in all educational institutions within next three years;

Within two years, introduce legal provisions and awareness-raising campaigns that would increase the visibility of intersex persons and ensure their adequate protection and well-being, including protection from discrimination based on sex characteristics, protection for their physical integrity and amending the Law on Civil Registration to introduce and differentiate between the concepts of sex and gender;

Ensure that LGBTI individuals are protected from discrimination in access to healthcare by introducing trainings on LGBTI rights to all medical staff and awareness-raising campaign on equal access to healthcare within three years and provide adequate and accessible therapy for every person living with and/or in risk of HIV and AIDS;

⁶ Penal Code of the Republic of Albania, Law No. 7895, dated 27 January 1995, <http://www.qbz.gov.al/Kode-pdf/Kodi%20Penal-2014.pdf>

⁷ As indicated in the 2018 EU Enlargement Country Report for Albania: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-albania-report.pdf>