

“

*"In the spring of 2006, I was at a gay party at club 'Santos'. A group of 10 unidentified men came into place, started shouting insults and attacked me and my friends. People were bleeding. I also experienced after Pride March in 2007 when a group of ten people followed us and attacked us. I have experienced harassment from security guards in gay clubs Global and Rush. The most serious physical assaults happened in the neighborhood where I live when I was recognized and attacked by people who knew of my sexual orientation. These included comments, throwing stones, breaking windows in the apartment where I live and an attempt to run me over with a car."*

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and LORI during 2013.*

”

#PinkMegaphone:

**FROM**

**ANTI-DISCRIMINATION ACT  
TO THE CONSTITUTIONAL  
BAN ON SAME-SEX MARRIAGE**



**Report of Zagreb Pride on  
the Human Rights of LGBTIQ Persons  
in Croatia 2010 - 2013**

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# *(impressum)*

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the Human Rights of LGBTIQ Persons  
in Croatia 2010 - 2013

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VJADU REPUBLIKE HRVATSKE  
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# / introduction

During the past few years, the Republic of Croatia has made important positive steps pertaining to the legal protection of LGBT persons. The legal framework for the protection against discrimination and hate-motivated crimes is satisfactory and can serve equally as an example to neighboring countries that are on the path to join the European Union and to many other EU countries.

As a result of the Life-Partnership Act (“the Act”) – proposed by the Ministry of Administration – LGBT persons will attain partial legal equality in the Republic of Croatia. Zagreb Pride participated in the working group for drafting the Act.

But what is the reality of lives of LGBTIQ persons in Croatia? Did the adoption of positive legal norms truly change the lives of LGBT people for the better? Did the high rate of violence significantly decrease after the Criminal Code was amended to include LGBT hate crimes in 2006? Has discrimination against LGBTIQ people declined since the enactment of the Anti-Discrimination Act in 2008?

In short, no.

The extensive field research that Zagreb Pride conducted in 2013 among the LGBTIQ population confirmed our fears that positive legislative changes have not significantly improved the lives of LGBTIQ people in the Republic of Croatia. Our research included interviews with 690 LGBTIQ persons from various regions in Croatia, including Zagreb, Rijeka, Split, Osijek, and Istria, as well as a small number of LGBTIQ people who had emigrated to Croatia over the last six years. To date, this field research has the largest sample size of LGBTIQ persons in Croatia.

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Alarmingly, the data indicates that as many as 73 % of the participants experienced some form of violence (of which approximately 17 % is related to physical violence) because of their sexual orientation, sexual/gender identity and/or gender expression. There is also an extremely high percentage – 38% of participants – who reported experiencing sexual violence at least once, if not repeatedly, due to their sexual orientation. Many

respondents consistently reported a rise of violence after 2006, when the Criminal Code was amended to include hate crimes against LGBT people, among others. The data also indicated that the most common perpetrators of violence against LGBTIQ persons ranged from strangers to people who know the victim, such as colleagues and immediate family members.

The data also demonstrated that approximately a third of respondents experienced some form of discrimination. The majority of these respondents indicated experiencing discrimination in the form of unequal treatment in the family, followed by access to goods and services (mostly access to food and beverage services or rental housing market), then at school or university and, finally, at work or during a job search. Discrimination often occurred in contact with public servants such as police and medical staff.

A significant portion of the LGBTIQ persons in the research (22.9 %) shares a household with their partner. More than half of them want or intend to register their relationship, which shows that the LGBTIQ community is in an urgent need of legislation that would make that registration possible. More than a third of respondents plan to have children (35 %), while around 5% of participants live with children and same-sex partner.

1.



# **REPORT ON INCIDENTS RELATING TO LGBTIQ INDIVIDUALS AND ZAGREB PRIDE'S RECOMMENDATIONS FOR FURTHER ACTION**

## ► 1.1.

# Hate crimes and lawsuits for damages and compensation

Zagreb Pride has decided to be actively involved throughout the year, and not just on the eve of Pride, in order to better fight against hate crimes and all forms of violence against LGBTIQ persons.

Since 2010, Zagreb Pride has been working on providing legal protection and representation for LGBTIQ persons. Victims of hate crimes may also request psychosocial support or receive information on how to exercise their rights as victims of hate crimes. This system is called # PinkMegaphone (# RoziMegafon). We provide legal representation through the Law Office Bandalo - Labavić. Zagreb Pride monitors criminal, misdemeanor, and civil proceedings related to LGBTIQ persons, and secures funding for the legal representation of victims of hate crimes and discrimination.

We decided to establish the “Pink Megaphone” because we ourselves, as activists as well as “out” LGBTIQ persons in Zagreb, have often been victims of hate crimes and various forms of discrimination. Moreover, a large number of members of the LGBTIQ community have been requesting from Zagreb Pride assistance with legal advice or representation as a result of the crimes committed against LGBTIQ individuals following Pride marches.

During these three years of active struggle, Zagreb Pride has significantly expanded its activities in the area of protection of the rights of LGBTIQ persons, which includes not only prevention programs, information sharing and protection of victims of hate crimes, but also strategic advocacy for rights of LGBTIQ persons.

# ► 1.1.1. „Sirup“

## DESCRIPTION OF THE INCIDENT:

**Hate motivated physical attack in a public place (Svetice bb, Zagreb, near the club “Sirup”) based on sexual orientation against two young gay men in November 2010. The two attackers were arrested shortly after they had committed the criminal offence.**

## CRIMINAL PROCEDURE:

Police simultaneously initiated criminal and misdemeanor proceedings. The State Attorney's Office subsequently issued an order to stop the misdemeanor proceedings. Had the misdemeanor proceedings been allowed to continue and completed first (which is usually the norm), the criminal proceedings would have been halted because of the judicial interpretation of the principle of non bis in idem or, in other words, that one shall not be tried twice for the same offence.

At the Court of First Instance (Municipal Criminal Court), the attackers were sentenced to six months of community service (first defendant) and six months of suspended imprisonment (second defendant). The State Attorney's Office, which had sought a prison term of five months (suspended for two years) for the first defendant and a prison term of one month (suspended for one year) for the second defendant, appealed the decision.

At the Court of Second Instance (County Court), in May 2012, both perpetrators were sentenced to six months of non-suspended imprisonment.

## STATUS:

Final judgment.

## RECOMMENDATIONS:

- issue clear instructions to the police and the Municipal State Attorney's Office to initiate criminal prosecution (not misdemeanor) of the perpetrators in hate motivated cases, which is the State's obligation under the European Convention for the Protection of Human Rights and Fundamental Freedoms (e.g. *Beganović v. Croatia*);
- require the Municipal State Attorney's Office to either (a) prosecute all individuals charged with commission of a hate crime, or (b) if it determines that there is no legal basis to prosecute, forward the case to the County State Attorney's Office for further review (This is consistent with the Danish legal model, which creates a standardized practice for higher authority review of all hate crimes);
- prescribe harsher punishment for hate crimes.

## CIVIL PROCEDURE:

Complaint filed on March 31, 2011 alleging discrimination and seeking monetary damages as compensation for the resulting harm. Despite numerous rush notes and Zagreb Pride's assistance in plaintiff's representation, only one hearing by the court has been held and no evidence has been presented.

## STATUS:

In progress.

## RECOMMENDATIONS:

- prescribe an effective legal remedy in the event of failure of courts to expeditiously adjudicate complaints involving discrimination;
- secure funds for compensation of pecuniary and non-pecuniary damages (at least partially) to victims of hate crimes.

## ► 1.1.2. „LGBT activist“

### DESCRIPTION OF THE INCIDENT:

**Hate motivated physical attack in a public place (Ilica 10, Zagreb) on the basis of sexual orientation against two young gay men in October 2007. Young men were attacked by a group of 6-10 people, of which only two were arrested.**

### CRIMINAL PROCEDURE:

During the criminal proceedings, it was not established that the attack was motivated by hatred. Therefore, the perpetrators were only convicted of causing serious bodily injury rather than the commission of a hate crime. The perpetrators were sentenced to a suspended sentence of imprisonment for one year (first defendant) and a non-suspended sentence of imprisonment for ten months (second defendant).

### STATUS:

Final judgment.

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### RECOMMENDATIONS:

- require the police to specifically examine whether a crime was motivated by hatred (change the criminal charge form), and further, where indicators of a hate motive for violent crime exist (e.g. the location of the commission of the crime, the offender's profile) require the police to specifically justify a determination that a violent crime was not

motivated by hatred (consistent with the Danish and British legal model).

### CIVIL PROCEDURE:

In December 2010, Complaint filed seeking monetary damages as compensation for resulting harm. One hearing by the court has been held; medical expert testimony is pending.

### STATUS:

In progress.

### RECOMMENDATIONS:

- prescribe an effective legal remedy in the event of failure of courts to expeditiously adjudicate complaints involving discrimination;
- secure funds for compensation of pecuniary and non-pecuniary damages (at least partially) to victims of hate crimes;
- make victims of hate crimes exempt from paying the costs of the proceedings;
- instruct expert witnesses in criminal proceedings to assess pain, fear and other criteria (so that in most anti-discrimination lawsuits witness expertise is not repeated).

“

*Five strangers beat me and a friend up on the street in Zagreb. At that time, a gay party was being organized in the neighborhood. They beat us, shouting, “Are you a faggot?”, “Drop dead, stinking faggot!” I suffered from lighter, and a friend from serious injuries.*

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and LORI during 2013.*

”

# ► 1.1.3. „Jedinica“

## DESCRIPTION OF THE INCIDENT:

**Hate motivated physical attack in a public place (Nova Ves 2, Zagreb, near club „Jedinica“) based on sexual orientation against a lesbian in January 2010. The attacker was later arrested, thanks to witnesses who wrote down the license plate of the attacker's car. The victim approached Zagreb Pride at the end of 2010, after she learned that the attacker was only charged with a misdemeanor.**

## CRIMINAL PROCEDURE:

The offender was sentenced in misdemeanor proceedings to a fine of 300,00 HRK (40,00 EUR). Because the offender was first sentenced in misdemeanor proceedings, criminal proceedings have not been initiated (principle of *ne bis in idem*).

Criminal charges were subsequently brought and rejected.

## STATUS:

In July 2013, an application was submitted to the European Court of Human Rights against the Republic of Croatia.

INTERVENERS: Zagreb Pride, ILGA-Europe, International Commission of Jurists, AIRE Centre

## RECOMMENDATIONS:

- issue clear instructions to the police and the Municipal State Attorney's Office to initiate criminal prosecution

(not misdemeanor) of the perpetrators in hate motivated cases, which is the State's obligation under the European Convention for the Protection of Human Rights and Fundamental Freedoms (eg *Beganović v. Croatia*, etc.);

- if misdemeanor proceedings are in process and concern acts of violence or harassment, inform the victim of such proceedings (had the victim known about the misdemeanor procedure, the victim would have had the ability to intervene and file a criminal complaint on time) (amending the Misdemeanor Law).

## CIVIL PROCEDURE:

In December 2010, Complaint was filed and multiple hearings including testimony by the parties and some witnesses have been conducted. Medical expert testimony has not been completed.

Zagreb Pride's petition to intervene on behalf of the plaintiff was rejected, and Zagreb Pride has appealed the decision of the court.

## STATUS:

In progress.

## RECOMMENDATIONS:

- prescribe an effective legal remedy in the event of failure of courts to act on the anti-discrimination complaints in an urgent manner;
- secure budget funds for compensation of pecuniary and non-pecuniary damages (at least partially) to victims of hate crimes;
- make victims of hate crimes exempt from paying the costs of the proceedings;
- stipulate that Ombudspersons and civil society organizations are not required to prove *legal interest* when intervening in anti-discrimination litigation, given their scope of work (the reason why Zagreb Pride was rejected as an intervener).

## ► 1.1.4. „Facebook 2012“

### DESCRIPTION OF THE INCIDENT:

**Participant in the campaign “Stop Homophobia!” carried out by the Zagreb Pride and the Center for Peace Studies has been subjected to threats motivated by hatred based on sexual orientation on the social network “Facebook” during November 2011.**

**Among other things, the defendant wrote to the plaintiff the following:** *“... from the depths of the soul and the depth of the asshole we await your arrival in Split so that we can get to know you deeper and closely ANALyze your problem.”*, **adding** *“We will not fuck your mother, but we felt that urge as all normal men,”* **and** *“We hope you will live long enough for us to see each other in June in Split.”*

**After the lawyers of Zagreb Pride filed charges against the perpetrators, a family member of the perpetrator also joined threats and sexual harassment of the victim.**

### CRIMINAL PROCEDURE:

Final judgment from October 2013. The adoption of the new Criminal Code in January 2013, conduct in cases of an offense of threat motivated by hatred is ex officio, which greatly eases the position of victims who no longer have to initiate private lawsuits.

### STATUS:

Final judgment from October 2013. The adoption of the new Criminal Code in January 2013, conduct in cases of an offense of threat motivated by hatred is ex officio, which greatly eases the position of victims who no longer have to initiate private lawsuits.

### RECOMMENDATIONS:

- educate judges in order to raise awareness to take in consideration, when assessing acts of threats and harassment motivated by hatred, that the less serious threat or harassment may cause the victim of hate crime a disproportionately greater harm, and that the motive for threats or harassment itself represents a serious act.

# ► 1.1.5. „Prečko“

## **DESCRIPTION OF THE INCIDENT:**

**Physical attack in a public place motivated by hatred based on sexual orientation by one male person against a young gay man in January 2011. The perpetrator had previously known the victim by sight, and the victim claims that the attacker had periodically harassed him in the past.**

## **CRIMINAL PROCEDURE:**

The perpetrator was sentenced to non-suspended imprisonment for a term of nine months.

## **STATUS:**

The decision awaits final judgment.

## **CIVIL PROCEDURE:**

A complaint was filed in order to determine discrimination and damages under the Anti-Discrimination Act.

## **STATUS:**

Complaint was withdrawn at the request of the plaintiff (the victim). After giving statements to the police, during the investigation by the investigating judge and before a criminal judge, the victim was

repeatedly exposed to secondary victimization and finally withdrew the complaint in a litigation.

## **RECOMMENDATIONS:**

- anti-discrimination litigation should be processed urgently and sanctions should be imposed for failure to act according to that provision of the Anti-Discrimination Act;
- if statements are given to other bodies about the same incident, allow the victim to use the testimony of those proceedings, and consider a potential risk of withdrawing from the procedure due to secondary victimization.

“

*I experienced an attack in the night club from an unknown person against my friend that resulted in injuries. I was forced to use a gas gun in order to prevent a further attack on her as well as myself.*

*When I was younger, heterosexual men often, because of my orientation, had an urge to offer the “correct” sexual intercourse in the “right” way. I never reported these incidents because I knew how to deal with such situations and how to distance myself.*

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and LORI during 2013.*

”

# ► 1.1.6. „Tram 2011“

## **DESCRIPTION OF THE INCIDENT:**

**Harassment and physical assault in a public place motivated by hatred based on sexual orientation against two lesbians and two young gay men by three juvenile males. Although the police immediately arrested the perpetrators, two perpetrators were charged in misdemeanor proceedings, despite the obvious and unambiguous elements of criminal offence.**

## **CRIMINAL PROCEDURE:**

The procedure is completed and third defendant was sentenced to more intense care and supervision with daily stay in a correctional institution. Criminal charges against first and second defendant were dropped because they had been previously convicted for the same offense in misdemeanor proceedings, which we consider to be a failure in police conduct regarding this hate crime.

- if misdemeanor proceedings are in process and concern acts of violence or harassment, inform the victim of such proceedings (had the victim known about the misdemeanor procedure, the victim would have had the ability to intervene and file a criminal complaint to the State Attorney's Office on time) (amending the Misdemeanor Law).

## **CIVIL PROCEDURE:**

A complaint was filed alleging discrimination and seeking monetary damages as compensation under the Anti-Discrimination Act in January 2012.

## **STATUS:**

Civil proceedings are in progress.

## **RECOMMENDATIONS:**

- prescribe an effective legal remedy in the event of failure of courts to expeditiously adjudicate complaints involving discrimination;
- secure funds for compensation of pecuniary and non-pecuniary damages (at least partially) to victims of hate crimes;
- make victims of hate crimes exempt from paying the costs of the proceedings.

## **RECOMMENDATIONS:**

- issue clear instructions to the police and the Municipal State Attorney's Office to initiate criminal prosecution (not misdemeanor) of the perpetrators in hate motivated cases, which is the State's obligation under the European Convention for the Protection of Human Rights and Fundamental Freedoms (e.g. *Beganović v. Croatia*);

# ► 1.1.7. „Trešnjevka“

## **DESCRIPTION OF THE INCIDENT:**

**Physical attack in a public place motivated by hatred based on sexual orientation against lesbian couple in June 2012 by one male person. The incident took place at several locations: the main station in Zagreb, on the night bus, at the tram/bus station “Trešnjevački plac” and on Nova Cesta Street. The attacker was arrested after a two-week media campaign organized by Zagreb Pride.**

## **CRIMINAL PROCEDURE:**

The perpetrator was sentenced to a non-suspended imprisonment for a period of eight months with security measure of compulsory psychiatric treatment. The State Attorney's Office has requested sentence of non-suspended imprisonment of three years and has appealed the decision of the court.

### **STATUS:**

Decision awaits final judgment in the criminal proceedings.

### **STATUS:**

A final judgment.

## **RECOMMENDATIONS:**

- secure funds for compensation of damages to victims of hate crimes following the final judgments (after which the state is repaid by the offender).

## **CIVIL PROCEDURE:**

Default judgment. The defendant was ordered payment of compensation to the plaintiff in the amount of 25 000 HRK (3 300 EUR). Considering the financial situation of the offender, it will be difficult for the victim to obtain compensation for non-pecuniary damages.

## ► 1.1.8. „Tram 2012“

### **DESCRIPTION OF THE INCIDENT:**

**Physical attack in a public place motivated by hatred based on sexual orientation against a gay couple by a young man and a young woman in October 2012.**

### **CRIMINAL PROCEDURE:**

Criminal charges initiated for violent conduct.

### **STATUS:**

The perpetrators were not found.

### **RECOMMENDATIONS:**

- prescribe mandatory reporting to the victims on the undertaken and planned actions with the aim of finding the perpetrators.

“

*Once two boys followed me to my building entrance and beat me up because it was not clear to them (to quote) “what the fuck I am.”*

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and Lori during 2013.*

”

## ► 1.1.9. „In the Name of Hate“

### DESCRIPTION OF THE INCIDENT:

After the process of collecting signatures for the referendum movement “In the name of the family” began, and particularly after the announcement that the required number of signatures has been collected, Zagreb Pride has recorded a significant increase in trend of hate speech on social networks.

In May and June 2013, we received at least 25 different reports on suspected criminal offenses of public incitement to violence and hatred. Criminal or misdemeanor charges were brought against two persons.

### CRIMINAL PROCEDURE:

On May 22, 2013, on Torcida Split Facebook (soccer fan club), via the Facebook profile of Antonio Tony Klaric, the following was written: “Kill, slaughter the faggot so that he ceases to exist! Oh, Hitler, rise ONLY for 5 minutes and resolve the burning issue on the Earth with a faggots! Don’t touch Niggers because we will put them back on trees and give them bananas!”

Zagreb Pride filed a criminal complaint against this person for publicly inciting violence and hatred through computer networks directed against a group of people because of their sexual orientation, race and skin color, thereby, we believe, he committed the criminal offense of public incitement to

hatred and violence and publicly approved the crime of genocide, crime of aggression, crimes against humanity and war crimes directed against a group of people because of their sexual orientation, race and skin color, in order to encourage violence and hatred against these groups.

### STATUS:

The procedure is in progress.

### RECOMMENDATIONS:

- prescribe mandatory reporting to the victims on the undertaken and planned actions with the aim of finding the perpetrators.

# ► 1.1.10. „Dubrovnik“

## **DESCRIPTION OF THE INCIDENT:**

**Physical violence in a public place motivated by hatred based on sexual orientation against a lesbian couple in August 2013. The attacker, a taxi driver in whose taxi girls rode with a friend, beat up one of the girls. A criminal case was launched three months after the incident, and only after Zagreb Pride sought suspension of the misdemeanor proceedings through criminal charge from the Municipal State Attorney's Office in Dubrovnik.**

## **CRIMINAL PROCEDURE:**

The police initiated misdemeanor proceedings. Simultaneously, on behalf of the injured party, a request was brought for suspension of misdemeanor proceedings and criminal charges were filed against the perpetrator for the criminal offense of inflicting bodily harm motivated by hatred. Namely, Dubrovnik police refused to comply with the Rules of Procedure in Case of Hate Crimes, and they repeatedly made media statements claiming that “the criminal investigation did not determine the elements of the criminal offense, and statements received by the police and provided by participants and witnesses of the incident, did not mention any circumstances that would in any way be indicative of a hate crime.” Since the moment of initiating criminal charges, Zagreb Pride has

been warning the public, especially over local media in Dubrovnik, that we suspect serious omissions in the work of the police as well as disclosure of information from the investigation to a local portal, and have expressed doubts about police “protection”, which was enjoyed by the perpetrator. It was not until late November 2013 that the District State Attorney's Office in Dubrovnik informed the legal representative of the injured party that the forty-four year old taxi driver was indicted with causing bodily injury motivated by hate.

## **STATUS:**

Criminal proceedings are in progress.

## **RECOMMENDATIONS:**

- issue clear instructions to the police and the Municipal State Attorney's Office to initiate criminal prosecution (not misdemeanor) of the perpetrators in hate motivated cases, which is the State's obligation under the European Convention for the Protection of Human Rights and Fundamental Freedoms (e.g. *Beganović v. Croatia*).

## ► 1.2.

### **Misdemeanors pursuant to the Anti-Discrimination Act**

*Before I moved to Zagreb, I lived in a small town where I was often verbally insulted and threatened with physical violence when I would hold hands with my girlfriend or kiss on a park bench. This used to happen in Zagreb as well. Also, when I would go out with my girlfriend to “normal” clubs, we were often insulted and offered unwanted sexual contacts or we were interrupted while dancing, touching and similar.*

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and LORI during 2013.*

## ► 1.2.1. „LGBT activist 2012“

### **DESCRIPTION OF THE INCIDENT:**

**Harassment and threats motivated by hatred based on sexual orientation against a LGBT activist. The incident was recorded in July 2012 in front of the activist's house, and the perpetrators were an unknown group of young men from the neighborhood.**  
**Harassment lasted for several months and stopped after the victim has moved away from the neighborhood.**

### **CIVIL PROCEDURE:**

Initiating court proceedings was proposed on July 26, 2012.

### **STATUS:**

The perpetrator was not found.

### **RECOMMENDATIONS:**

- prescribe mandatory reporting to the victims on the undertaken and planned actions with the aim of finding the perpetrators.

## ► 1.2.2. „Café in Ilıca“

### **DESCRIPTION OF THE INCIDENT:**

**A lesbian couple was asked to leave a café, motivated by hate based on sexual orientation.**

### **CIVIL PROCEDURE:**

Initiating court proceedings was proposed on June 2013.

### **STATUS:**

In progress.

### **RECOMMENDATIONS:**

- prescribe mandatory reporting to the victims on the undertaken and planned actions with the aim of finding the perpetrators.

## ► 1.2.3. „In the Name of Hate“

After the process of collecting signatures for the referendum movement “In the name of the family” began, and particularly after the announcement that the required number of signatures has been collected, Zagreb Pride has recorded a significant increase in trend of hate speech on social networks.

In May and June 2013, we received at least 25 different reports on suspected criminal offenses of public incitement to violence and hatred. Criminal or misdemeanor charges were brought against two persons.

### CIVIL PROCEEDINGS:

On May 31, 2013, Zagreb Pride received a message via the social network Facebook from a person under a name Viktor Grgić with the following content: “*Kill, slaughter so that the faggot ceases to exist!!!*” The intent of his action was to cause fear or provoke unfriendly, humiliating or offensive environment and he has violated the dignity of GBTIQ persons, thereby, in our opinion, committing a misdemeanor stipulated and punishable under the Anti-Discrimination Act.

### STATUS:

The procedure in progress.

### RECOMMENDATIONS:

- prescribe mandatory reporting to the victims on the undertaken and planned actions with the aim of finding the perpetrators.

“

*I was crossing the street with my partner in Rijeka near the Hotel Continental, where people usually gather, and I believe four minors started verbally abusing us and lightly hit us on the head.*

*We continued on without further confrontation or consequences.*

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and LORI during 2013.*

”

## ► 1.2.4. „Slobodan Novak“

### **DESCRIPTION OF THE INCIDENT:**

Kao autor teksta objavljenog u Večernjem listu, Slobodan Novak je iznio uznemirujuće tvrdnje koje su stvorile neprijateljsko i ponižavajuće okruženje za pripadnice i pripadnike LGBT zajednice.

### **CIVIL PROCEDURE:**

During November 2013, based on harassment pursuant to the Anti-Discrimination Act, initiating court proceedings was proposed.

### **STATUS:**

The misdemeanor procedure is in progress.

### **RECOMMENDATIONS:**

- prescribe mandatory reporting to the victims on the undertaken and planned actions with the aim of finding the perpetrators.

“

In 2012 I have experienced multiple abuse from the neighbour as well as from the guests that came to visit him.

I live with my partner in a rented apartment on the floor below his. The police never “found” the perpetrator.

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and LORI during 2013.*

”

## ► 1.3.

### **Litigation brought under the Anti-Discrimination Act**

“

*I experienced verbal and psychological abuse by peers at school, as well as on the job from the employer and customers. It also happened often in public places - parks, streets, clubs, tram. Very often I hear comments such as: “Are male or female?”, “If I fucked you, you would know who you are and what you want” as well as a wide range of insults related to my existence.*

...

*At the university, a professor of bioethics supported colleague’s homophobic comments. I responded, and after that I had problems with passing the exam. I wanted to report it immediately, but because of the fear and due to my mother’s influence, I did not do anything. If that was happening now, I would expose the professor in the newspapers.*

– 30

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and LORI during 2013.*

”

“

*Bravo to normal people from Belgrade! That is how normal citizens of Zagreb should act when these sickos occupy public streets and public areas. What gives a right to a handful of gays and lesbians to come out to the streets to ask for some rights? They would have that right if someone normal came to their house and attacked them because of their illness.*

*(Franjo Jurčević, Kastavian pastor)*

”

## ► 1.3.1. „Renting an apartment“

### **DESCRIPTION OF THE INCIDENT:**

**The owner of the apartment in Trešnjevka neighborhood refused to sign a lease contract with a lesbian because of her sexual orientation.**

### **CIVIL PROCEDURE:**

A lawsuit was filed seeking establishment of discrimination and seeking monetary damages as compensation for the resulting harm under the Anti-Discrimination Act.

### **STATUS:**

Civil procedure is in progress.

### **RECOMMENDATIONS:**

- prescribe an effective legal remedy in the event of failure of courts to act on the anti-discrimination complaints in an urgent manner;
- secure budget funds for compensation of pecuniary and non-pecuniary damages (at least partially) to victims of hate crimes;
- make victims of hate crimes exempt from paying the costs of the proceedings;
- educate the judiciary on the principle of shifting the burden of proof.

## — 1.3.2. **Class actions**

In 2010, civil society organizations Lori, Domino, Zagreb Pride and the Center for Peace Studies filed three class actions for discrimination against LGBT people - first such lawsuits in the history of the Croatian judiciary.

The first class action was filed against the former president of the Croatian Football Federation Vlatko Markovic, the second against the former vice president of Football Club Dinamo, Zdravko Mamic, and the third against Kastavian pastor Franjo Jurcevic.

While in the case against Franjo Jurcevic, Rijeka County Court established, within a short time, direct discrimination and harassment in accordance to the Anti-Discrimination Act, we encountered many problems in cases against Markovic and Mamic, including lengthiness of proceedings. In the case against Markovic we sent five rush notes, and discrimination was established only during the appeal process, after UEFA took action following our report, and imposed a 10,000 EUR fine on Markovic.

We were represented in all proceedings by the law firm of Lina Budak in Zagreb and Dijana Kesonja in Rijeka.

## ► 1.3.2.1. „Jurčević - Kastavian pastor“

### **DESCRIPTION:**

In June 2011, the Trial Chamber of the Rijeka County Court, chaired by Judge Ivanka Maricic Oreskovic found Franjo Jurcevic, a priest from Kastav, guilty of discrimination because of the articles “Belgrade theorem” and “To my knowledge so far not a single journalist in Croatia condemned perversions of lesbians and homosexuals in Spain”, published on his blog on November 10, 2010. The Court held that Jurcevic discriminated, encouraged discrimination and harassed on the basis of sexual orientation, calling LGBT persons “sick”, “perverted”, “shameless losers”, “persons of sick orientations”, “abnormal”, “perverse and deviant people.”

Jurcevic was ordered to publish the judgment at his own expense, and within eight days, in the newspapers “Jutarnji list” and “Novi list”, and he was banned from posting further articles for the blog “zupnik.blog.hr” that would discriminate persons

on the basis of sexual orientation. The court also ordered the Kastavian pastor to remove controversial texts from his webpage within eight days.

The Supreme Court upheld the first instance judgment in November 2012.

### **PROSECUTORS:**

Zagreb Pride, Lori, Domino, and the Center for Peace Studies

## ► 1.3.2.2. „Marković“

### **DESCRIPTION:**

**Due to the statements that “homosexuals will not play in the Croatian national football team while he is the president of HNS” because “luckily, only healthy people play football” Vlatko Markovic, the former president of the Croatian Football Federation, committed direct discrimination. This was the verdict of the Croatian Supreme Court in October 2012. This verdict altered the first instance verdict by the County Court in Zagreb from May 2011 where the Court rejected the class action for discrimination and harassment (Judge Jasenka Grgic). The Supreme Court accepted the most crucial parts of the claim and banned Markovic from future homophobic rants. Markovic was also required to, at his own expenses, publish the verdict and an apology in “Vecernji List”, since the mentioned statements were published in this newspaper in October 2010. The court ordered him to apologize to the public through “Vecernji list” and to publish the entire verdict.**

### **PROSECUTORS:**

Zagreb Pride, LORI, Domino and the Center for Peace Studies

### **INTERVENERS:**

General Ombudsperson, Ombudswoman for Gender Equality (in the appeal process)

## ► 1.3.2.3. „Mamić“

### **DESCRIPTION:**

The class action was filed because of the statement given to the media by the president of “GNK Dinamo” Zdravko Mamic on November 16th 2010, which was repeated in newspapers and on television.

Mamic’s statement supports the earlier statements by Vlatko Markovic, the president of the Croatian Football Federation, that homosexuals should not play in the national football team, only because of their sexual orientation: “gay football players cannot play for the national team”. He further continued, saying that homosexuals could have other professions, such as “ballet dancers, songwriters or journalists.”

In November 2011, the Croatian Supreme Court ruled that Mamic did not discriminate, thus confirming the verdict of the County Court in Zagreb (Judge Jadranka Travaš, whose exemption was requested in March 2011). In the justification of the verdict, the Supreme Court stated that there were no

circumstances by which one could reasonably conclude that joining the national football team was made difficult or impossible for homosexuals based on their sexual orientation. This interpretation is contrary to the decision in Feryn case by the European Court of Justice. In this case, the director of the company Feryn said that his company was not inclined to employ immigrants, and the European Court found that such statement represents direct discrimination since such statements could discourage immigrants from applying for jobs at Feryn, thereby preventing them to access the labor market.

The Supreme Court was asked to revise the verdict in December 2012.

### **PROSECUTORS:**

Zagreb Pride, LORI, Domino and the Center for Peace Studies

### **INTERVENERS:**

General Ombudsperson, Ombudswoman for Gender Equality  
(in the appeal process)

### **RECOMMENDATIONS:**

- educate the judiciary and victims on the principle of shifting the burden of proof.
- accelerate court processes pertaining to determining discrimination.

## ► 1.4.

### **Exercising the right to same-sex unions**

## ► 1.4.1. The right to family reunification

### **DESCRIPTION:**

The application for a temporary residence permit in Croatia was rejected to a citizen of BiH. The purpose of the application was family reunification because same-sex unions are not considered to be family by the Aliens Act. A request to the Ministry of Interior was submitted in December 2011.

### **STATUS:**

The claim against the decision of MUP was rejected.  
Administrative complaint was rejected.  
Constitutional complaint was rejected.  
In July 2013, a complaint was filed to the European Court for Human Rights against the Republic of Croatia.

### **RECOMMENDATIONS:**

- include same-sex unions, i.e. life partnership in the definition of family in all the laws.

## ► 1.4.2. Establishing a civil union before court

### **DESCRIPTION:**

Due to the need for the regulation of property rights after termination of a same-sex union, the plaintiff filed a complaint in order to determine the existence of same-sex union.

### **CIVIL PROCEDURE:**

In January 2013, a litigation began in order to determine the same-sex union and common property.

### **STATUS:**

Civil procedure is in progress.

### **RECOMMENDATIONS:**

- adopt the Law on Life Partnership.

## ► 1.4.3. Right to regulation of proprietary relations

### **DESCRIPTION:**

The need to regulate property relations in  
two same-sex unions.

### **STATUS:**

Wills have been written by all parties in each same-sex union.

### **RECOMMENDATIONS:**

→ adopt the Law on Life Partnership.

# ► 1.5.

## **Asylum protection**

# ► 1.5.1.

## An asylum seeker from Uganda

### **DESCRIPTION:**

**Due to persecution and life threatening circumstances in his country because of his sexual orientation, the victim has applied for an asylum.**

### **ADMINISTRATIVE PROCEDURE:**

In the first instance, the request for asylum was rejected on the grounds of insufficient credibility of the applicant.

The Administrative Court confirmed the first instance decision in November 2012.

Zagreb Pride believes that the official translator was inconsistent and not reliable, both in the first and the repeated request, while translating the testimony of the asylum seeker.

The applicant submitted a repeated request in January 2013, which is still pending.

— 40

### **STATUS:**

Administrative procedure is in progress.

### **RECOMMENDATIONS:**

- Educate case managers about UNHCR guidelines;
- Ensure qualified interpreters.

# ► 1.6.

## **Applications pertaining to the discriminatory treatment in public services**

During the reporting period, four complaints were submitted pertaining to the conduct of state and public employees.

Two complaints relate to police conduct. One complaint was filed from a lesbian couple because of the harassment by the border police, while the second complaint was filed by the participant of Zagreb Pride March 2011 because of violation of the right to freedom of expression and harassment on the basis of assumed sexual orientation. Both petitions were rejected by the General Police Directorate as unfounded.

One elementary school in Zagreb received a complaint about the conduct of their employee who, based on the witness' statements, on the day of Zagreb Pride 2011 told students in lower grades not to watch the Pride March, as gays are sick. She also added that the students will not watch such nonsense while she is the teacher. The complaint was assessed to be unfounded, with justification that the school cannot be held liable for conduct of their employees outside their working hours and school activities. It is interesting that the school hired a law firm in order to write response to the complaint.

The fourth complaint was sent to the Zagreb County for hiring a person who was convicted of the criminal act of "racial and other discrimination" for jobs related to the census. The Mayor of Zagreb responded saying that person will no longer be engaged in jobs having to do with the census.

*I have experienced verbal abuse, bullying by  
classmates, friends, parents, priests and professors.  
They called me names, changed my name into male  
form and used that name instead.*

*From the descriptive responses of participants of field research on violence and discrimination,  
conducted by Zagreb Pride, QSS and LORI during 2013.*

# ► 1.7.

## Reports regarding the violation of the Law on Electronic Media

### **DESCRIPTION:**

Due to a number of discriminating and disturbing articles posted on [www.zdravstveniodgoj.com](http://www.zdravstveniodgoj.com) web page, Zagreb Pride submitted a report regarding violations of the Law on Electronic Media and violations of the Regulation on the Registry of providers of media services, electronic publications and non-profit producers of audiovisual and/or radio programs to the Electronic Media Council. Namely, the above mentioned web page is not registered as an electronic publication. Furthermore, a request was made that the publisher of the “Zdravstveni odgoj” (Health education) portal be put under surveillance as misdemeanor charges will be brought once the publisher’s identity becomes known.

“

*In an organized society, a human does not have social rights to actions whose purpose cannot be fulfilled. He can only try to achieve them, but he cannot legalize them. Making all excessive minorities equal in rights with majority without any selection, would be like placing equals sign between Olympians and Paralympic athletes, without any regard to their handicaps. Let us not forget, not only does the law condemn those who commit suicide and their “freedom of choice”, but prosecutes, if possible, the mere attempt, and even euthanasia. And if that is so, why not sanction the thousand-year old ethical crime, the infamous unnatural fornication, sodomy!?*

– 44

(Slobodan Novak, published in ‘Večernji list’, November 2013)

”

## ► 1.8.

**Reports pointing to  
discrimination and hate crimes**

## — 1.8.1. Reports on discrimination in the area of employment

According to the 2009 Market Research Agency data, up to 66 per cent of interviewed employers would not hire a homosexual person. Almost half of the interviewees believe that such persons should be banned from working in public services, and up to 67 per cent think that they should be forbidden to work in the educational system.

The latest Zagreb Pride research data from 2013 shows that LGBTIQ persons conceal their sexual orientation at work place or when searching for a job. Therefore, it is no surprise that the majority of reports on discrimination against LGBTIQ persons, which we receive, never reach a courtroom. Most employees, victims of discrimination, at some point decide against participating in a labor dispute with their employer.

### ► 1.8.1.1. The case of „KBC (CHC) 1“

#### DESCRIPTION:

After learning about the victim's sexual orientation, their superiors, at one of Zagreb Clinical Hospital Centers (KBC), refused to renew their contract because of this information. During the following months, the victim was bullied and discriminated against, until mid of 2011.

#### STATUS:

No legal action was taken since none of the victim's coworkers, afraid of losing their jobs, agreed to testify on behalf of the victim.

#### RECOMMENDATIONS:

- educate the judiciary on the principle of shifting the burden of proof.
- establish coordination between LGBT organizations and public service unions in order to work together on preventing discrimination against LGBT health workers, given that discrimination based on sexual orientation has recently been more frequently reported.

“Some of my male colleagues would insult me at work for something I said or for not acting ‘manly’ enough.

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and Lori during 2013.*

– 47

## ► 1.8.1.2. The case of „KBC (CHC) 2“

### **DESCRIPTION:**

Another employee of the above mentioned Clinical Hospital Center (KBC) was informed, in early 2011, that his fixed-term contract was terminated when it was revealed that the employee was in a same-sex relationship. The victim claims that, before his superiors learned about his sexual orientation, they had been number one candidate for an open-term contract, as displayed on the hospital notice board. Wishing to peacefully resolve the dispute, the victim never reached out to any of the LGBT organizations.

### **STATUS:**

Unknown.

*“Mr. Employer thought he could “convert me”, so he tried to rape me, which resulted in him learning about my self-defense skills. Luckily enough, nothing happened.*

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and LORI during 2013.*

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## ► 1.8.1.3. **The case of „Law office“**

### **DESCRIPTION:**

**Workplace mobbing based on gender identity and expression of an employee. The victim was pressured to agree to contract termination by mutual consent, although basis for termination was victim's gender identity and expression. Over the course of several months, the victim was bullied and discriminated against, until the end of 2013.**

### **STATUS:**

No request for protection of employees' rights was filed because the victim feared additional workplace mobbing during the remaining time of the contract.

### **RECOMMENDATIONS:**

- extend deadlines for filing requests for protection of employees' rights.
- specify start-date for deadline for filing request for protection of employees' rights to be the victim's of discrimination last day at work place.

## — 1.8.2. **Reports of discrimination in the provision of services**

This area is the most common aspect of life in which LGBTIQ persons experience direct discrimination. Moreover, same-sex couples are most frequently exposed to discrimination in this field. Most cases of discrimination reported pertain to access to housing or provision of goods and services.

### ► 1.8.2.1. **Housing**

**Landlady has been entering the apartment, rented by a gay man in his early twenties, while he was at work and, while invading his privacy, she learned about his sexual orientation. After confronting him, she informed his parents, and gave him a five-day notice to vacate apartment. The young man had an opportunity to sue his landlady for violating the Law on Apartment Lease, for discrimination and harassment, but decided against it after finding another apartment.**

“

Potential landlord asked me and my partner if we were friends, and fell silent when I replied we were not. Then he told us he had other tenants for the apartment.

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and LORI during 2013.*

”

## ► 1.8.2.2. **Provision of goods and services**

During the reporting period, we received a number of reports of discrimination of LGBT persons, especially couples, in the area of accessing goods and services. LGBT persons were warned by the service personnel about “*inappropriate behavior*”, which included: holding hands, usual kisses and hugs. In all cases, the personnel threatened to throw the couples out if they continued to “*behave that way*”. Considering these situations included same-sex couples who cannot take same actions as different-sex couples in similar circumstances, these incidents are typical forms of direct discrimination and harassment based on sexual orientation.

In two out of four recorded instances, the victims decided to talk to the owners or the managers of the cafés, who took note of their employees’ actions, but we have no information on further policies of those cafés toward LGBT persons. Victims of the remaining two incidents stopped visiting those places.

“

*My girlfriend and I were “asked” to leave a café, located in the center of Zagreb, because it was not a kind of place where two girls were allowed to kiss.*

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and LORI during 2013.*

**It is troublesome that two of the four cafés in question are listed in “Zagreb Gay Guide” tourist guide, which generates lists of Zagreb facilities and LGBT related offers in agreement with their respective owners. There are reports of repeated discrimination of same-sex couples in both facilities.**

”

## ► 1.8.3.

### **Reports of criminal offences - suspected hate crimes**

During the reporting period, we also noted three instances of hate crimes that were not reported to the police. Two of these were recorded in 2012 (Zagreb city center, and Sisak, based on homosexual orientation of a female person, and based on gender identity or expression of a transgender person), and two in 2013 (Zagreb city center, and Rijeka city center, based on sexual orientation of a female person, and based on sexual orientation of a male person).

None of these incidents were reported to the police. Victims mainly emphasize not reporting hate crime incidents to the police for fear of them reoccurring, while in one case the victim decided not to report it to the police for fear of secondary victimization by the police.

“ While my partner and I were kissing at the Rush club, a male stranger who was sitting next to us started touching my knee. When I removed his hand off me, he started yelling, grabbed me by my wrist and told me nobody said no to him. Later, he stood by the club door, keeping track of people going out. We barely managed to escape.

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and LORI during 2013.*

► **1.8.4.**

**Reports on  
misdemeanor acts  
– various forms of  
harassment**

“  
*On the way home  
from our night out  
at the Split beach  
“Bacvice”, a group of  
unknown young men  
assaulted me and my  
friends both verbally  
and physically. The  
police failed to provide  
proper help.*

Year	Town	Short description	Reason for not reporting
2011.	Ogulin	A young gay man who does not study in his place of residence, experienced harassment and various forms of threats by his school colleague nearly every time he comes to visit his family.	The person stated that a misdemeanor charge or a complaint pertaining to discrimination would be overreacting.
2011.	Ogulin	Due to their gender expression, the person was periodically harassed both by acquaintances strangers.	The person dealt alone with the harassment problem, without taking criminal or legal measures, but they wanted to inform Zagreb Pride about their case.
2011.	A small village in Dalmatia	Because of their gender expression and assumed sexual orientation the person experienced various forms of intimidation, including an attempt to cause a traffic accident by his partner's family member.	Embarrassment or fear of disclosure of sexual orientation to the police.
2011.	Zagreb	While returning from a club where repeated hate crimes against LGBT persons have been recorded, a gay couple experienced violence by guests of a nearby folk club. In addition to verbal abuse and attempts of physical abuse, the couple was stoned from a distance of 10-15 meters.	They thought that police could not do anything to identify the attackers.
2011.	Opatija	An older foreign citizen experienced repeated verbal violence and harassment by several boys who live near the place where he resides.	Unknown.
2012.	Split	A group of girls were attacked by at least two young men in the evening after the second Split Pride. The young men assumed their sexual orientation because of their gender expression and other characteristics. The girls also complained about the behavior of the police, the fact that the police did not recognize the incident as hate crime, as well as the fact that private information was disclosed to the family of one of the victims.	They turned to the organization Kontra.
2013.	Dubrovnik	Employees of a tourist facility experienced harassment and threats on a daily basis, due to assumed sexual orientation. The threats come from employees of a competing company. Police turned a deaf ear about the complaint and advised them to initiate a private procedure if they are bothered by such behavior.	They turned to the organization Kontra.

“

*Two years ago, I went out for my birthday with a few friends. We went to a bar which is not gay friendly, but I never expected that people I knew through some friends would mind that me and my girlfriend hugged from time to time or kissed...*

*They threatened us with physical violence and I had a verbal clash with one person, but nothing more happened.*

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and LORI during 2013.*

”

“

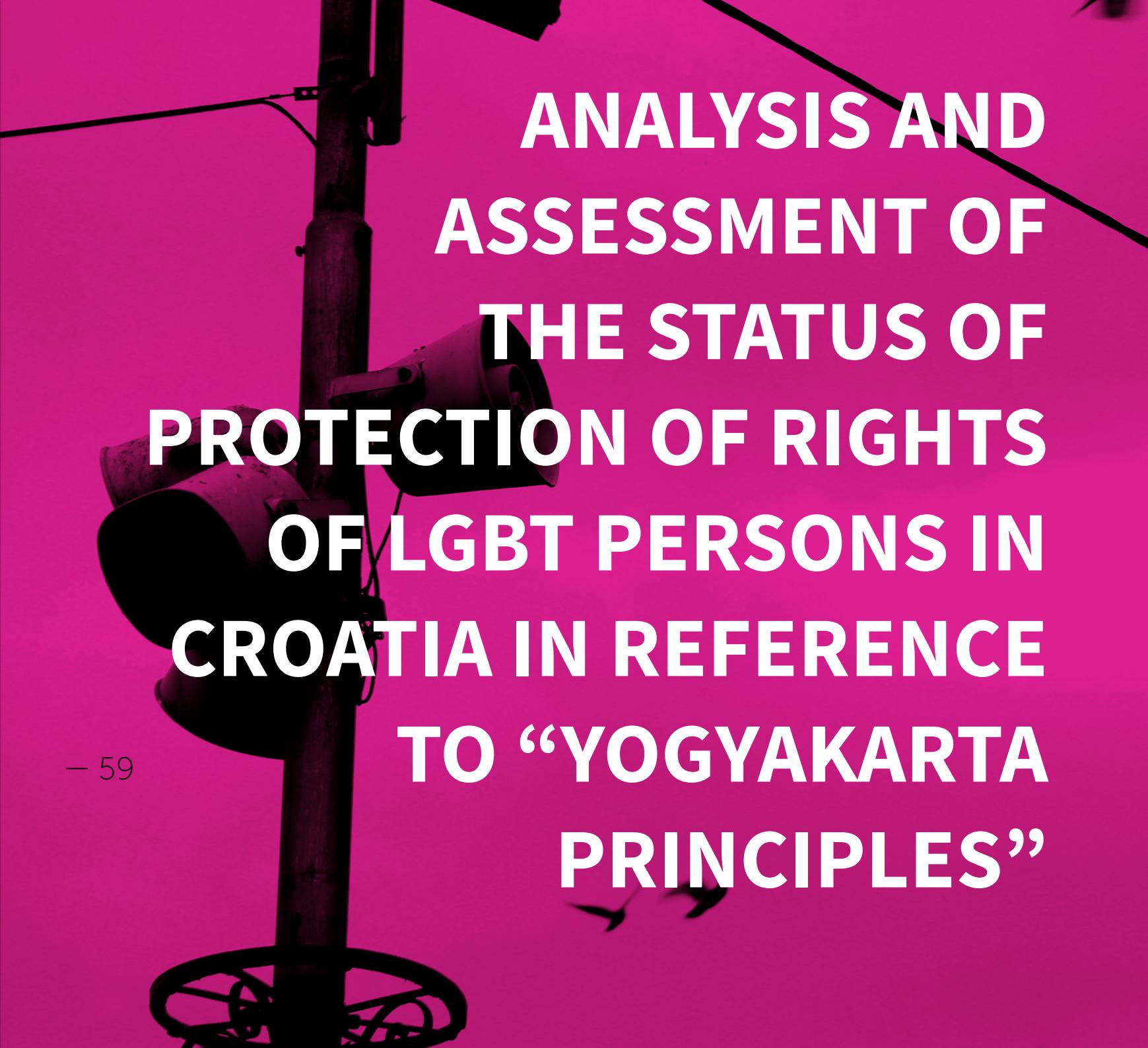
*During secondary education my school peers verbally abused me, threw stones at me, and destroyed my property (my bike and my car). When I was 17, a taxi driver asked if I would ‘make a deal with him’ instead of paying for the ride. People intimidated me in a full tram about 10 p.m. They followed me around and waited for my stop to find out where I am getting off. I didn’t do anything to provoke such behavior. None of the passengers reacted.*

– 57

*From the descriptive responses of participants of field research on violence and discrimination, conducted by Zagreb Pride, QSS and LORI during 2013.*

”

2.



# **ANALYSIS AND ASSESSMENT OF THE STATUS OF PROTECTION OF RIGHTS OF LGBT PERSONS IN CROATIA IN REFERENCE TO “YOGYAKARTA PRINCIPLES”**

Prohibition of discrimination against LGBT persons based on sexual orientation, gender identity and gender expression, and the protection of certain rights are regulated in the Republic of Croatia by a series of laws and regulations. However, awareness of the population, in general and in the LGBT community, about the existence of anti-discrimination framework in national legislation is still extremely low. Implementation of national and international regulations is unsuccessful due to the high degree of homophobia and transphobia in the society, as well as widespread institutional homophobia.

Removal and suppression of unequal status of life, partner and family unions of LGBT persons in comparison to marital and non-marital unions and heterosexual families should be, in the upcoming period, among the priorities of the Croatian legislation. LGBT individuals and couples do not have equal and adequate treatment when obtaining public health and social services as well as a number of other economic, social and cultural rights arising from marital status. Today, people who are married enjoy more than sixty different rights, while LGBT couples, through the Law on Same-Sex Unions, declaratively have only two rights.

Although in recent years the focus of public, politics and LGBT organizations is aimed towards regulating the status and rights of lesbian and gay couples and families, it does not mean that the protection from discrimination, violence and hatred against individuals who identify as lesbian, gay, bisexual or transgender is satisfactory. Still all the research by independent bodies and civil society organizations show that in Croatia sexual orientation, gender identity and gender expression are among the most common grounds for discrimination and violence.<sup>1</sup> In fact - despite the efforts of LGBT organizations and one part of the political actors and the media in the past decade – there are still deeply rooted homo/bi/transphobia in the society. Negative attitudes, stereotypes, prejudice, and even hatred, are often transferred and result in reluctance of the authorities to vigorously and continuously invest in suppressing homo/bi/transphobia. In addition, there is insufficient and unsatisfactory level of political will to, through laws and institutions, improve the status and rights of LGBT persons. Also, LGBT persons are often faced with marginalization and psychological and physical violence in workplace, school or at the university, as well as within their own families.

1 According to a survey conducted by an independent agency Puls in 2008 on a sample of 800 people, 49% said that homosexual persons should be prohibited from working in the public sector or government agencies and health care, 67% of respondents said that LGBT people should be banned from access to children, especially working with children in schools. In the same survey only 28% of respondents did not express negative attitudes toward members of sexual and gender minorities.

According to research by GONG and the Faculty of Political Science in 2010, 46% of high school students believe that homosexuality is a kind of disease, while 64% believe that homosexual persons should be banned from public appearances. According to the annual reports of the Ministry of Internal Affairs submitted to the Government Office for Human Rights, hate crimes based on sexual orientation are among the three most common grounds for committing criminal offences of hate.

## ► 2.1.

**The main mechanisms and frameworks for protection of the rights of LGBT persons and related areas of discrimination**

## ► 2.1.1. General anti-discrimination framework

In the Article 14, the Constitution of the Republic of Croatia states: “*All persons in the Republic of Croatia shall enjoy rights and freedoms, regardless of race, colour, gender, language, religion, political or other conviction, national or social origin, property, birth, education, social status or other characteristics.*” The Article 35 guarantees to everyone “*respect for and legal protection of each person's private and family life, dignity, reputation.*”

The European Union prohibits discrimination on grounds of sexual orientation and gender identity (Directive 2000/78 / EC) as well as direct and indirect discrimination. EU Member States are obliged to harmonize their laws with this directive.

Anti-Discrimination Act (ZoSD, OG 85/08; 112/12) prohibits discrimination in all aspects of human life and on a variety of grounds (for example, race or ethnicity, sex, language, religion), including the basics of “*gender identity and expression and sexual orientation,*” while none of these grounds are defined. Gender identity and expression and sexual orientation are defined in the (now numerous) documents of international law.

Discrimination by all state bodies is prohibited, as well as by local and regional governments, legal persons with public authorities and all companies and individuals in all areas of private and public sector. However, in relation to LGBT persons, certain areas of family and other relationships are excluded from the prohibition

of discrimination in Article 9 (2) of ZoSD<sup>2</sup> which outlines exceptions to the prohibition of discrimination. For protection against discrimination of LGBT persons, the interpretation of these broadly and loosely set exceptions is of major importance. An overly broad interpretation could lead to allowing employers not to hire an LGBT person as that would be contrary to his/her (religious or other) beliefs, i.e. denial of rights and obligations in the area of family relations, which would constitute a violation of international standards for the protection of LGBT persons.

The still valid Law on Same-sex Unions (OG 116/03) directly prohibits “*any discrimination, direct or indirect on the basis of same-sex partnerships, and homosexual orientation.*” (Article 21 (1)).

Labor Act (OG 149/09, 61/11) stipulates the prohibition of discrimination, so that direct or indirect discrimination are prohibited in the field of work and working conditions, including selection criteria and conditions for employment, promotion, vocational guidance, vocational training and retraining, according to special laws (Article 5 (4)). The prohibition of discrimination is set only in general terms by a provision which sets basic obligations

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2 The following cases are exceptions from discrimination:

[...]

5. in relation to occupational activities, entering into membership and acting in conformity with the canon and mission of a church and religious congregation entered into the Register of Religious Congregations of the Republic of Croatia, and any other public or private organisation which acts in conformity with the Constitution and laws, if this is required by the religious doctrine, beliefs or objectives;

10. placing in a less favourable position when regulating the rights and obligations arising from family relations when it is stipulated by law, particularly with the aim to protect the rights and interests of children, which must be justified by a legitimate aim, protection of public morality and favouring marriage in line with Family Act provisions.

and rights arising from employment, while the detailed arrangement of the prohibition of discrimination is left to the special law (Anti-Discrimination Act).

Discrimination based on sexual orientation is also explicitly prohibited by a series of sectoral laws such as the Law on Gender Equality (Article 6), the Law on Science and Higher Education (Article 77), the Law on Media (Article 3 (4))<sup>3</sup>, the Law on Sport (Article 1), etc.

Regardless of the legal framework, the human rights of LGBT persons are not sufficiently recognized in public, there is no safe environment for LGBT persons, and different types of sexual orientations are not recognized as a fundamental dimension of human sexuality and identity. There are serious problems with consistent and systematic implementation of prohibition of discrimination in practice.

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- 3 “It is forbidden to use program content in media to promote or glorify national, racial, religious, gender, sexual orientation-related or any other inequality, ideological or state formations based on such inequalities, inciting hatred or animosity based on race, religion, gender sexual orientation or incite any other animosity, violence or war on the same bases.”

## ► 2.1.2. Political and institutional context

There is insufficient institutional support for combating transphobia and homophobia. Although some public authorities, in their statements, voice condemnation for incidents of homophobic violence and call for “tolerance and respect for diversity”, these statements are often not followed by real and practical steps and measures to abolish violence. Often the condemnation of homophobia represents a view of an individual politician (the liberally oriented speak out condemning homophobia, while those conservatively oriented remain silent) thus creating the impression that the condemnation of violence or hatred can be the matter of political ideology or attitude, rather than the generally accepted value. Political parties in the Republic of Croatia do not have separate sections related to LGBT rights, politics and topics in their programs, and a few parties mention LGBT persons and their rights in their publications, but only nominally.

## ► 2.1.3.

### Freedom of assembly

Freedom of assembly of LGBT persons is threatened by the unconstitutional activities of violent extremist groups, and public calls for lynching of LGBT persons in Croatia. In recent years, progress regarding securing the freedom of assembly for LGBT persons is more visible, and the government has been effective in suppressing extremist violence. However, it is unknown whether this will change now since Croatia joined the European Union and is no longer under the special surveillance of foreign bodies. In addition, there are no programs for education and raising awareness of public, whose goal would be to show that events such as the Pride March are in no way different from similar protests and gatherings of other groups.

## ► 2.1.4.

### Police

There have been numerous incidents of hate crime in which the police filed charges for misdemeanor act instead of criminal offense, despite the existence of all necessary elements for the filing a criminal charge. Therefore, the perpetrators are being punished for misdemeanor and receive light sentences which has no effect on protection and security of LGBT persons, and such light sentences cannot be considered as a measure of deterrence to other potential perpetrators.

In recent years, the LGBT organizations established cooperation with the Police Academy, which has partially introduced education about hate crimes in their curriculum. Zagreb Pride had the opportunity to hold a number of seminars for active police employees from the City of Zagreb and Zagreb County, but such forms of education would have to be intensified and institutionalized in order to yield systematic improvements. Due to the education and seminars in Zagreb area, we noted the progress in police prosecution of hate crimes, which is not the case in Split and southern Dalmatia. Therefore, we had to file criminal charges since almost all of the reports that we have received were treated by the police as misdemeanors without elements of hate.

## ► 2.1.5. Hate crimes

In recent years the legal protection against homophobic and transphobic hate crimes has been improved. This relates primarily to the new Criminal Code, which entered into force on January 1, 2013. It stipulates harsher penalties for hate crimes (which have become a qualified form of crime) on the basis of gender identity of the victim, as well as on the basis of their sexual orientation. Improvements include the Rules of Procedure in Case of Hate Crimes, created by a governmental working group for monitoring of hate crimes, as well as police training that has been protocol conducted in cooperation with LGBT organizations.

However, the sentences for hate crimes are mostly symbolic or suspended. Also, although the Rules of Procedure in Cases of Hate Crime state that the police must take particular care when processing cases of hate crimes, there are still problems with classification of the crime, as well as with the investigation and prosecution of a hate motive.

The most known cases of homophobic hate crime occur at the time of Pride Marches, when LGBT persons are more exposed in public. According to official figures, until 2011, police recorded only a few cases of homophobic hate crimes. However, only in 2011, the police recorded 45 hate crimes committed on the basis of sexual orientation, 44 of which were committed in the context of Split Pride in June 2011.

A large and unknown number of cases of hate crime remains unreported. A survey from 2007, conducted by the organization LORI showed that only 4.6% of lesbian, gay, bisexual and transgender persons who participated

in the survey reported discrimination and violence, while the research by Zagreb Pride, LORI and Queer Sport Split from 2013 recorded only a slight increase in the number of reports - less than 8% of the participants reported a hate crime to the police. Very little information is available regarding the transphobic hate crimes. Hate crime and violence are not reported mainly due to the victims' low level of trust in the police, ie. the low level of education and sensitivity of individual police officers. In addition, victims sometimes fear that their sexual orientation could be revealed against their will. Disclosure of sexual orientation to the family of the victim was noted in the hate crime case in 2012 after the Split Pride.

## ► 2.1.6. Work and Labour Market

Discrimination at work and on the labour market is prohibited. Research and experiences, as well as complaints of LGBT persons to organizations reveal existence of discrimination and harassment. This suggests that some employers do not respect sufficiently the prohibition of discrimination nor their obligation to protect the dignity of workers; that the labor rights of LGBT persons are often violated and that the safeguards against discrimination are insufficiently used. Similar to discrimination on other grounds, one of the main motives for not using the protective mechanisms is the fact that LGBT persons are afraid of losing their jobs, reduced wages, and arbitrary actions of their superiors, which is even more present in the times of economic crisis, recession and high unemployment. Due to the fear of many LGBT persons for their status within their professional setting and for their own workplace, in the majority of professions they are not inclined to publicly express their sexual and/or gender identity, which negatively affects their dignity, work performance and mental health.

In the labour market, LGBT persons are protected as individuals, but not as members of a same-sex civil union or life partnership.

## ► 2.1.7. The right to marry, to found a family, to a family life and derived rights

The Family Law (Official Gazette 116/03, 4.17, 136/04 107/07, 57/11, 61/11) denies the right to marry to two persons of same sex. The right to marry, as well as other derived benefits, are only available to heterosexual persons. Therefore, the entire Family Law discriminates persons based on sexual orientation, denying the same-sex couples the same rights that enjoy different-sex couples. Law on Same-sex Unions provides same-sex partners only the right to mutually support each other and the right to acquire common property, while the existing framework is not harmonized with the system of protection of human rights of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Particular problems and forms of inequality and discrimination are present in the following areas:

- *inheritance*: in a same-sex union, the partner can inherit only half of the property, after the other partner passes away (“the right to acquire the common property”), while the other half is inherited by other legal heirs. Common property is not defined as property that existed when partners began living together, nor the property acquired during the same-sex union as inheritance or a gift. This can be avoided only if there is a will of a deceased person, or if the partners signed a

- contract stating that in case of death of one partner all assets are inherited by the living partner;
- *social rights* that are created to fit heterosexual communities through binding rights to the institutes of the Family Law and autonomous definition of family members. If a family member is unemployed, and the family has insufficient income to support all its members, they receive social assistance, as well as other forms of assistance (child benefits, exemption from certain kindergarten or school related expenses). Same-sex unions do not have those rights because the laws do not recognize them as family;
- *tax status and benefits*: tax benefits through the increase of non-taxable allowances are not available to same-sex couples. In the market of financial services and products credit guarantees through relatives depend on discretion of the bank, or are solved on a case-by-case basis.
- *health insurance and health care*: the right to health insurance through the partner is denied to same-sex couples in Croatia. Moreover, for example, in case where the biological mother loses her job, her child cannot receive health insurance through her partner;
- *pension insurance*: gay and lesbian couples are not entitled to family pension, except for the possibility to inherit the right to 2nd and 3rd level of pension fund through a will;
- according to the *Aliens Act*, a family reunion on the basis of same-sex union is not allowed;
- *adoptions* from which same-sex couples are completely excluded. Only married persons can adopt children, as well as persons who are not married, if this is of a particular benefit to the child (Family Law, Article 133 (2));
- *reproductive rights*: Law on Medically Assisted Reproduction (ZMPO), which regulates reproductive rights, discriminates against same-sex couples and homosexual persons.

## ► 2.1.8. The education system

The Ombudsperson's report on discrimination for 2010 (under 2.1.6. Sexual orientation) states that open homophobia, lack of public condemnation of homophobia, lack of systematic civic education, and human rights education on all the educational levels, and the view that homosexuality is a private matter, contribute to a discriminatory environment. In conclusion of the report, it is noted that due to general prejudice and discriminatory attitudes based on sexual orientation, there is a lack of comprehensive educational program to combat discrimination based on sexual orientation and gender identity, and that there was a dire need for direct implementation of such educational programs in the school curriculum.

Various forms of homo/bi/transphobia are highly visible in Croatian schools along with the alarming trend of bullying and/or harassment based on sexual orientation and/or gender identity. This has been confirmed by a recent research on opinions and attitudes towards homosexuality in secondary schools in Zagreb (A. Hodzic and N. Bijelic, 2012, Zagreb, on a sample of 322 students and 117 teachers), where nearly one third of high school students reported committing verbal and/or physical violence against a person because of their assumed sexual orientation.

One of the key problems is the protection of young people, especially high school population from violence and discrimination they experience from their peers. Homo / bi / transphobic bullying leaves immediate, but also long-term effects on the psychosocial health of young people, as well as their ability to achieve success in school. Most often, these students do not ask teachers or assistants

(psychologists, educators, etc.) for help since they fear that they would be rejected or condemned. On the other hand, school staff does not have enough information nor adequate knowledge pertaining to the psycho-social support for LGBT youth.

## ► 2.1.9. **Transgender persons**

Anti-Discrimination Act (ZoSD, OG 85/08; 112/12) prohibits discrimination based on gender identity and expression. Also, the new Criminal Code includes gender identity as one of the bases for committing hate crimes, meaning that crimes against transgender and transsexual persons are punished more strictly and are explicitly recognized in the investigation and court proceedings. Discrimination based on gender identity is prohibited at the level of the European Union (Directive 2000/78 / EC). It is also important to mention the Directive on the rights guaranteed to victims of hate crimes by the European Parliament from 2012, where the bases of a criminal offense are both gender identity and gender expression.

Laws and regulations in force in the Republic of Croatia are not sensitive to gender reassignment. Documents issued by various public authorities or public institutions (e.g. universities) in most cases are not adaptable to change the gender and identity of a person, and do not protect their privacy.

One of the major problems is also the protection of transgender persons who do not intend to undergo through the whole gender reassignment process but, for example, live in a different gender identity from the one they were assigned at birth and/or have the external characteristics of the other gender, because they are taking hormone therapy. Many persons decide not to undergo genital surgeries and it is necessary that laws and legal regulations recognize transgender persons in the system and ensure the issuance of the necessary documents, and health care, thereby recognizing their true gender identity.

According to the new Personal Name Act (OG 118/12) transgender persons can, in an easy way, change their legal name to a gender appropriate one, without having to undergo the gender reassignment surgery.

The problem still exists when it comes to changing the gender marker in official documents. The existing Regulations concerning the collection of medical records of gender reassignment (Official Gazette 121/11) requires that the record of the change in the register of births is done based on the opinion of the National Health Council. The Council holds that the regulation is too vague, therefore not willing to adhere to it, nor to deal with the applications pertaining to gender reassignment.

It is therefore necessary to create a new law or by-law which would encompass life in a different gender identity.

Apart from those who surgically adapted their gender, the new Law on State Registry opens the possibility of changing the gender marker in birth registry also for persons living in a different gender identity. In addition, the birth certificate does not contain the note about sex change or name anymore, and is issued with the new name (containing only a note that the name has been changed).

In Croatia, there is no law on the gender adjustment process (gender transition), which represents an additional obstacle for all transgender and transsexual persons, restricts their human rights and does not provide the necessary medical and legal care. At the end of 2013, a working group for the adoption of the new regulation was established that should recognize life in a different gender identity, and which would allow, among other things, the gender marker change in documents for persons who did not or do not intend to undergo the surgical procedures for gender adjustment.

There is no systematized nor regulated access to health care and psychosocial services starting from psychiatric assessment, through hormonal therapy to the gender reassignment surgery. Health experts do not have adequate education nor expertise in this area of

sexual and reproductive health care. At this point, care for transgender and transsexual persons is reduced to personal professional interest of certain medical professionals to work in this area and there exist numerous administrative and healthcare complications and obstacles within the system.

It is necessary to work on educating and raising awareness of the health care workers and to ensure the existence of policies and programs for the education and training of professionals. In addition, it is necessary to improve and adapt programs and services in the health sector in order to prevent discriminatory conduct against persons because of their gender identity and/or expression and to ensure access to professional and non-discriminatory treatment and care for persons who wish to undergo gender adjustment process.

## ► 2.2.

**Main directions for action to  
improve the protection of  
the rights and status of  
LGBT persons in  
the Republic of Croatia**

## ► 2.2.1. Life-Partnership Act

Through the Life Partnership Act lesbian and gay couples in Croatia will achieve a series of rights and obligations they had been denied so far, but their status will not be entirely equated with heterosexual married couples. Access to and provision of a range of economic, fiscal, social, pension, health and other rights deriving from the union of family life will significantly improve the status and simplify many real-life situations of gay and lesbian couples, especially compared with the Law on Same-Sex Unions. There remains, however, a symbolic and legal distinction between marriage and life partnership, which only reinforces the unequal social status of same-sex couples and heterosexual couples in Croatian society and laws. Special attention will have to be given to monitoring and reporting on the implementation of this law on all levels, as well as to monitor how the various institutions (registrars, Croatian Health Insurance Fund, Croatian Pension Insurance Fund, tax administration, health care facilities, courts ...) treat same-sex partners, whether they provide them with access to public services and rights under the same conditions and in the same way as they do to married couples and whether they conform to the anti-discrimination provisions incorporated into this Act. In terms of employment and labor relations, particularly by private employers and access to goods and services (e.g. renting apartments or taking loans), the public and various stakeholders will also have to be educated in order to avoid possible discrimination against same-sex couples, unequal treatment and or prevent potential cases where individuals, due to the fear of insult, humiliation, or prevention of advancement at the workplace, could be inclined not to use the rights they are

guaranteed by law (e.g. paid leave to enter life partnership or the right to sick leave).

Life Partnership Act recognizes parental and partner care for a child who lives in the family union, whose biological parent is one of the partners. By this, the law recognizes and partially regulates the current life situation of same-sex families with children, but still leaves one of the two parents (one that is not the biological parent) in an unfavorable position than the one being biologically related to the child, even if they have been the father/mother to the child their entire life, took care of the child and had developed emotional connection. Lesbian and gay couples will remain fully discriminated regarding the right to adopt a child.

Life Partnership Act primarily provides a series of practical rights related to the status of life partners/couples, but remains discriminatory in the field of rights related to the status of children. Although the possibility of adoption does not exist for life partners, the existing situation is recognized as well as the fact that same-sex unions with children do exist, and there is a possibility for the non-biological parent to acquire the right of parental care for his/hers partner's child.

## — 2.2.2.

# The criminal justice framework and implementation

In recent years the legal protection against homophobic and transphobic hate crimes has been improved. This relates primarily to the new Criminal Code, which entered into force on January 1, 2013, and stipulates harsher penalties for hate crimes (which have become a qualified form of crime) on the basis of gender identity of the victim, as well as on the basis of their sexual orientation. Improvements include the Rules of Procedure in Case of Hate Crimes, created by a governmental working group for monitoring of hate crimes, as well as police training that has been conducted in cooperation with LGBT organizations. However, monitoring by NGOs shows that there are still omissions, especially in the police investigation of motives of hatred and in providing timely and accurate information to victims. It is the duty of the police to conduct a detailed investigation of all alleged motives of hatred that would be the basis of a criminal offense. State Attorney's Office can add a hate motive in the process of prosecuting the crime, but practice has shown that they usually follow the conclusions of the police.

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## ► 2.2.2.1.

# Training for police officers

The police have the responsibility for the decision on how a certain criminal offense is classified. Physical attacks can be classified by the police as a criminal offense (with bodily injury or serious bodily injury) or as misdemeanor. In order to avoid multiple instances of repeated homophobic and transphobic attacks being classified as misdemeanors, a continuation and intensification of the training of police officers is needed as well as a formalization of curriculum of the Police Academy that includes LGBT topics. In particular, a special effort needs to be placed on frequent seminars for active police officers, primarily about the implementation of the Criminal Code when dealing with LGBTIQ victims and forming positive attitudes towards LGBTIQ persons. To achieve these goals, cooperation and support of the Ministry of Interior's highest level of authority is essential.

The police should apply the laws in a non-discriminatory manner, so that their behavior towards citizens shows to what degree human rights are respected, and how rampant the degree of discrimination in the society is. Police officers must not be prejudiced against certain groups and must always be aware of the fact that any discrimination on any grounds is unacceptable. Training of police officers is also necessary with the curriculum of the Police Academy that includes courses with improved human rights dimension, more in-depth knowledge about the Constitution of the Republic of Croatia, and the ethics of the police profession.

## ► 2.2.2.2. **Justice system**

It is necessary to continue to monitor the functioning of the judicial system, i.e. to monitor the existing procedures for discrimination against LGBT individuals and cases of violence. At the same time, it is important to continue with the training of judicial staff (judges and State Attorney's) through informal seminars and the system of the Judicial Academy. Examples from practice show that when cases of homophobic violence with bodily injuries are clearly classified as criminal offenses, and hate motive is properly taken into account during the investigation and prosecution, the procedure can be effective. In the last two years, the State Attorney's Office has been requesting maximum sentences for hate crimes. Judges still mostly rule minimum sentences for hate crimes, although there is an increase in non-suspended sentences, which we consider to a more acceptable penalty.

## — 2.2.3. **Combating homo/ bi/transphobia in schools and improvement of sex education**

National policies, programs and initiatives in Croatia recognize the importance of protecting children and young people from abuse, of providing safe environment and of enhancing their emotional, physical and educational well-being. But there is a lack of programs, guidelines and regulations that are directly related to sexual orientation and/or gender identity and combating homo/bi/transphobia in schools. It is therefore necessary to introduce topics about LGBTIQ issues and to remove existing homophobic and transphobic content from school textbooks. The majority of such content can be found in books on religious education. Educational institutions should insist on the use of affirmative language on a daily basis and confront hate speech and discriminatory comments by employees and students. Furthermore, schools must implement education for raising awareness of professional staff and students on LGBT issues as well as provide accessible and diverse sources of psychosocial support for persons who have experienced violence due to sexual orientation and/or gender identity. Such training was conducted only in a high school in Opatija based on the program of Lesbian Organization Rijeka, LORI.

Principals, teachers and associates are obliged to prevent and stop any form of violence in schools and, if necessary, cooperate with the police and the center for social welfare. It is important that schools ensure a “safe” place, where the persons who feel as victims could find refuge, serve as an example (i.e. through the conduct of school employees), and provide a model of non-violent and positive behavior and respect for students. The areas that are potential places for attacks or intimidation should also be closely monitored.

In order to efficiently prevent and combat homo/bi/transphobia and peer violence in schools, but also to resolve such incidents when they occur unacceptable manner, it is essential to:

- develop strategies that recognize the existence of homo/bi/transphobic violence. It is necessary to ensure that the school's strategy for combatting peer violence and/or abuse also includes the violence based on sexual orientation and/ or gender identity and its expression. This also applies to responding to the hate speech and use of derogatory terms for LGBT young persons;
- prevent and act in cases of homo/bi/transphobic violence and abuse. Prevention should be the focus of the work of schools, since taking the initiative to stop the violence facilitates action when it really happens. Prevention activities also contribute to creating an atmosphere and attitude among students that bullying is completely unacceptable and will not be tolerated. This can be achieved through raising the level of awareness, creating and distributing written educational materials, encouraging pupils to report homo/bi/transphobic incidents, developing and implementing prepared effective strategies for intervention against the perpetrator and victim's support;
- provide objective information about homosexuality and transgender issues as well as a systematic education

for students. This means that the topics of homo/bi/transphobic violence and/or harassment have to be implemented in the curriculum, that homo/bi/transphobic content has to be removed from textbooks and other teaching materials, and that the students must be encouraged to critical think and discuss the issues of differences and diversity;

- develop additional education for teachers and professional staff on the issue of peer violence and/ or harassment of LGBT youth, and provide objective information with the aim of reducing of prejudice and ignorance among employees.

## ► 2.2.3.1. Health education

Since the end of 2012, health education started being introduced to primary and secondary schools in the Republic of Croatia. In the module called Sex/Gender Equality there is an attempt to cover LGBT topics, although very marginally and insufficiently. The attacks of clerical and conservative organizations on health education jeopardized its systematic and scientifically based application, and it can be assumed that additional efforts will be required to implement the module on Gender/Sexual equality as planned.

In the revised curriculum from September 2013, education on LGBT rights in elementary schools has been omitted. In case the topic of homosexuality is mentioned, teachers are advised to provide a brief explanation to their students. This means that children in primary schools do not have the right to know the basic facts about LGBT issues, although they have long before acquired homophobic attitudes from adults.

In the handbook for teachers and associates in secondary schools, as a part of the topic “marriage”, the notion of same-sex marriages and families is described in an inappropriate and discriminatory manner as a “controversial issue” (p. 227). Furthermore, statement that “*in some countries there are families with same-sex parents*” (p. 228) suggests that there are no such families in Croatia, which is not true, so children are given inaccurate and incomplete information, which stigmatizes same-sex families with children.

The topic of homosexuality (intended for third graders, p. 237 and forward) is presented so that students are encouraged to confront different opinions, which equates

worldview and ideological views on LGBT identities with legislation and scientific knowledge, thereby relativizing the overall regulatory framework of Croatia, international legal instruments for protection and scientific achievements as such. Pride March, which is regularly held in both Zagreb and Split, is frequently miscalled “Pride parade”, giving the students incorrect information and leading them to the wrong conclusion about the nature of the event, an event which is a public assembly guaranteed by the Constitution of the Republic of Croatia. And finally, nowhere in the curriculum could one find an assumption that some students and some of the school employees are also LGBT persons.

In order to remove mistreatment of homosexuality and LGBT rights in school curricula in the future, it is necessary that the Ministry of Science, Education and Sports and the Agency for Education detect the improper and misleading content and remove it from the handbook, as well as issue additional guidelines to schools. It is necessary to raise awareness about the need for LGBT issues to be included in the programs of humanities and social sciences (e.g. LGBT literature, history of LGBT rights) and also to integrate the topic in sociology and philosophy. A particular challenge will be to monitor what and how is being taught within the scope of Health Education in an objective and comprehensive manner.

## ► 2.2.3.2. Civic education

In addition to the existing integrative program of health education, the Ministry of Education is planning to introduce civic education in the educational system for the academic year 2014/ 2015. The mentioned subject is being experimentally implemented in four secondary and eight primary schools. According to the announcements of the Ministry, within the scope of this program, the students will learn about the respect for human rights, respect for diversity, democracy, active citizenship, and sustainable development.

## ► 2.2.4. Health protection and access to health services

Area of health of LGBT persons, treatment and education of medical staff as well as the suitability and availability of health facilities, products and services has not yet been covered by special by-laws, regulations nor protocols. In addition to the general provisions on the prohibition of discrimination, there are no regulations that LGBT persons could use in order to obtain adapted and non-discriminatory access to public health services. It is therefore necessary, in cooperation with the public health system, medical staff, Croatian Health Insurance Fund and the Ministry of Health, to start developing:

- educational and informative material for medical staff;
- organization, with the support of competent institutions, professional development seminars for doctors and other medical staff (primarily at the level of primary and emergency health care);
- inclusion into the curricula of medical schools and medical faculties content pertaining to the importance of health services developed for the specific needs of LGBT persons and the treatment of LGBT persons in the health care system in a non-discriminatory manner;
- policies and programs at the Department of Health to create a regulatory framework for the provision of health care services with high respect and acknowledgement of sexual and gender identity.

In the direct work with LGBT persons, their families and friends, we developed programs of psychosocial assistance for victims of violence and discrimination, as well as for support in the process of coming out, self-acceptance and personal identity development, developing relationships with parents and within the family, with peer groups and dealing with social stigma, homo/bi/ transphobia and other problems. The programs of psychosocial assistance proved to be very successful and it is necessary to continue with further implementation. It is also important to develop a network of informal LGBT counseling centers and an on-line support platform, but also to develop institutional centers with certified and qualified psychologists and psychotherapists.

## ► 2.2.5. **National strategy and the program to combat homophobia and transphobia**

For years there have been discussions about the need to develop a comprehensive national plan to combat homophobia and transphobia, taking into account the alarming levels of violence and intolerance against LGBT persons, particularly noticeable at the moment when their visibility is increased, as is the case during Pride Marches.

For now, there is no expressed political will to start with preparations of such a strategy, and in the future it is necessary to raise awareness of political parties and authorities about its importance and necessity.

This program should, among other things, include:

- education for representatives at the national and local level, public servants, especially employees of governmental offices responsible for the promotion and protection of human, civil and minority rights of LGBT persons;
- obligation of authorities of all levels to have a proactive attitude towards projects of LGBT organizations, to provide them with institutional and financial support to carry out their activities through special grants and programs specifically intended to combat discrimination based on sexual orientation, gender identity and expression, to encourage their development and empowerment, and to participate in these projects as partners and/or main implementing bodies.

## ► 2.2.6. Raising awareness of media regarding LGBT topics

It is necessary to organize training for media employees on LGBT terminology (the use of gender-sensitive terminology) and the affirmative and non-discriminatory manner of reporting. Gender and LGBT-positive terminology implies identity approach to homosexual persons, i.e. to use names and words used by homosexual/bisexual and transgender persons. Such terminology is defined by the Glossary of gender terminology, according to EU standards, and issued by the Governmental Office for Gender Equality in 2007.

Moreover, in order to better and more appropriately inform the general public about the lives and identities of LGBT persons, occasional public campaigns need to be continued, as well as texts and video materials which would provide positive examples of LGBT topics. It is important to implement a part of these campaigns in cooperation with public institutions and local and national authorities, especially those aimed at combating violence and discrimination.

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When analyzing portals and printed media in the period from May to July 2013 for the report of the association Cenzura +<sup>4</sup>, we have concluded that the largest number of

Croatian media used less and less demanding genres such as short news and articles when writing about LGBT topics. Analytical and more journalistic forms such as analyses and reports occur only in a small percentage. Comments appear more frequently, but because of different ideological positions of columnists, this journalistic form proved to be both a place for the recognition of the LGBT community (Novi list or Tportal), and for discrimination (Vecernji list and Slobodna Dalmacija). However, the discriminatory terminology and hate speech are actually rare, but the fact that journalists use positive-LGBT terminology in just over a half of the analyzed articles raises serious concerns.

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<sup>4</sup> „Media Reporting on rights of LGBT persons“, authors: Jurčić Marko and Opačić Tamara, Cenzura+, November 2013

## ► 2.2.7. **Rights and protection of transgender persons**

Croatian legislation must begin to recognize the rights and needs of transgender persons, ranging from quality health care and psychosocial services to removing legal and administrative barriers that arise for persons who are in the process of gender transition.

It is necessary to adapt all the laws and by-laws that are insensitive to the change of sexual status of persons undergoing or having undergone gender transition in a way that all the rights are recognized in accordance with the new identity of the person. This includes the ability to adapt all documents issued by public authorities and other institutions, such as university diplomas and school certificates, with gender status of a person determined after gender transition, while respecting the person's right to privacy and data protection in order to prevent discrimination based on gender identity, because of previous gender status.

It is necessary to draw up a new Regulation that would determine how the medical records are collected, and which will clearly lay down the rules and protocols both for the process of gender reassignment and for life in a different gender identity.

It is necessary to systematize and regulate health care for transgender and transsexual persons and to take all necessary legislative, administrative and other measures to ensure the access to health services, as well as their adequacy, in particular in the process of gender

transition and gender adjustment. Also, it is necessary to provide adequate psychosocial support for transgender and transsexual persons, to provide them with help when dealing with the problems they face as a result of the rejection of the environment, families, and greater exposure to violence and attacks.

It is necessary to work on educating and sensitizing the health care service providers in this area and ensuring the existence of policies and programs for the education and training of professionals. In addition, it is necessary to improve and adapt programs and services in the health sector so that they do not discriminate against persons because of their gender identity and/or expression, and also to ensure access to professional and non-discriminatory treatment and care for persons who wish to go through the process of gender adjustment.

In regards to human rights of transgender persons, special attention should be paid to the rights of transgender children. Children are particularly vulnerable category and the protection of their welfare must be taken into account having in mind an unsupportive environment. It is necessary to provide special care for transgender children, but also to provide adequate support to parents.

Finally, all segments of society need to be educated about transgender and transsexual issues, as well as to implement actions and campaigns aimed at increasing the acceptance of trans persons in society and to eliminate discrimination based on gender identity and / or its expression.

# [ CONCLUSION ]

**Violence and discrimination are still experienced on a daily basis by LGBTIQ persons in Croatia, and the need for legal regulation of family life of same-sex couples has never been greater. The only change for the better that has occurred over the past three years is the fact that increasing number of people do not hide their sexual orientation or gender identity.**

**Combating violence remains a major challenge for LGBTIQ activists, and is included as one of the main tasks of Zagreb Pride. Our goal is to create a positive environment for LGBTIQ persons in Croatia. Creating a positive environment has been increasingly difficult, or rather slow, due to the campaign of clerical movement “In the Name of the Family.” The consequence has been not only constitutional inequality of citizens, but also unfavorable, tense climate and divisions among Croatian citizens to “normal” and “abnormal”.**

**Although increased awareness of LGBTIQ population about the existence of legal protection against hate crimes and discrimination, we recorded only a slight increase in reports. Zagreb Pride has initiated a series of legal actions accordingly, mostly hate crimes and discrimination lawsuits for damages and compensation. Furthermore, when it comes to discrimination at the workplace and access to goods and services, victims rarely decide to initiate legal actions. The most common reason that victims provide for withdrawal or not initiating legal action is a lack of support by witnesses of discrimination.**

**Same-sex couples in Croatia cannot enjoy any of the rights that belong to them as a family union, even though these rights are guaranteed by the European Convention on Human Rights, verdicts of European Court of Human Rights, and the Constitution of the Republic of Croatia. In November 2013, the Constitutional Court of Croatia, referring to the possible outcome of the referendum on the constitutional definition of marriage is unequivocally stated that “... the possible amendment to the Constitution with a provision according to which marriage is a lifelong union of woman and man cannot have any influence on the further development of the legal framework for institutes of extramarital and same-sex unions in accordance with the constitutional requirement that everyone in the Republic of Croatia has the right to respect and protection of their personal and family life and their human dignity.”**

**Recognition, regulation and protection of family life of LGBT persons provided by the Life Partnership Bill is undoubtedly a positive step forward and a step towards equality in the Republic of Croatia. Considering the existing and unenforceable Law on Same-Sex Unions from 2003, Life Partnership Bill guarantees a high level of rights that is certainly to be welcomed as it is a democratic standard of Croatia as a member of the European Union.**