



**ERA – LGBTI Equal Rights Association for Western Balkans and Turkey, PINK Embassy Albania, Streha LGBT (Shelter), Pro LGBT, CEL Kosova, Subversive Front, The Coalition Margins, Association Spectra, Egal, Gayten – LGBT, Legebitra, TransAkcija Institute, Pembe Hayat and SPoD**

**Written Contribution to the  
REPORT ON LEGAL GENDER RECOGNITION  
of  
UN Independent Expert on Protection against Violence and Discrimination  
based on Sexual Orientation and Gender Identity**

**19 June 2018**

## Table of contents

Statement of Interest.....	3
Albania .....	5
Bosnia and Herzegovina .....	7
Croatia.....	9
Kosovo .....	10
Macedonia.....	12
Montenegro .....	14
Serbia .....	17
Slovenia.....	20
Turkey .....	23
Sources and useful links .....	26
List of contributors.....	28

## Statement of Interest

ERA – LGBTI Equal Rights Association for Western Balkans and Turkey, PINK Embassy Albania, Streha LGBT (Shelter), Pro LGBT, CEL Kosova, Subversive Front, The Coalition Margins, Association Spectra, Egal, Gayten – LGBT, Legebitra, TransAkcija Institute, Pembe Hayat and SPoD are submitting this written contribution, which focuses on the situation of trans individuals in the Western Balkans and Turkey, as of 2018, with the purpose of providing necessary information to the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.

In order to collect all the necessary up-to-date data, ERA – LGBTI Equal Rights Association for Western Balkans and Turkey performed a desk research on the current situation of trans individuals and prepared a special Questionnaire on trans rights situation in the Western Balkans and Turkey, to which 15 CSOs and activists from seven countries responded to, while two of the respondents decided to remain anonymous and their identity is not included:

ERA – LGBTI Equal Rights Association for Western Balkans and Turkey<sup>1</sup> (hereinafter: ERA), is an umbrella regional association operating in 9 countries (Albania, Bosnia & Herzegovina, Croatia, Macedonia, Kosovo, Montenegro, Serbia, Slovenia and Turkey) with a current membership of 58 LGBTI organisations. It was established in September 2015 with the objectives to: a) strengthen capacities of LGBTI organisations in the region, b) lobby and advocate nationally, regionally and internationally for LGBTI rights by utilizing empirical findings and up to date research and c) strengthen and improve the visibility of LGBTI movement and communities across the region and beyond.

PINK Embassy Albania<sup>2</sup> is a non-profit organisation which works for the protection and advancement of the rights of lesbians, gays, bisexuals, transgender, intersex and queer people in Albania. Its work started in the mid-2000s with a group of LGBT activists close to CRCA Albania who worked for the first legal advancements regarding LGBT people and crafted PINK Embassy as a concept for the protection and advancement of the LGBTI rights.

Streha LGBT (Shelter)<sup>3</sup> (hereinafter: Streha) is a CSO from Albania supporting LGBTI youth through multi-disciplinary service programs that will help them in overcoming their family difficulties and society barriers, with the great purpose of being integrated as equal individuals within society.

Pro LGBT<sup>4</sup> works on advancement of LGBT rights in Albania, especially through alternative media and progressive public displays.

Centre for Equality and Liberty of the LGBT community in Kosova (CEL)<sup>5</sup> (hereinafter: CEL Kosova) was established in Kosovo in 2013 with the aim to empower the LGBT community in Kosovo, prevent discrimination based on sexual orientation, raise awareness of the general population on LGBT rights and advocate for equal rights and non-discrimination of the LGBT community in Kosovo in accordance with the Constitution and the laws of the Republic of Kosovo.

---

<sup>1</sup> For more information about ERA, please visit the website: <http://www.lgbti-era.org>

<sup>2</sup> For more information about PINK Embassy Albania, please visit the website: <http://www.pinkembassy.al/en>

<sup>3</sup> For more information about Streha, please visit the website: <http://strehalgbt.al/?lang=en>

<sup>4</sup> For more information about Pro LGBT, please visit the website: <http://historia-ime.com>

<sup>5</sup> For more information about Pro LGBT, please visit the website: <http://www.cel-ks.org>

The Association for a critical approach to gender and sexuality – Subversive Front Skopje<sup>6</sup> was founded in June 2013 in Macedonia. The association works towards improved social, political and economic participation and human rights of LGBTI people in Macedonia by focusing its work in 5 key areas: advocacy for LGBTI rights, training and education on gender and sexuality, research and policies on LGBTI, provision of services of legal and psychosocial support and counselling for LGBTI, and fundraising for LGBTI projects and initiatives.

The Coalition Margins<sup>7</sup> from Macedonia (hereinafter: Coalition Margins) is working on sexual and health rights of marginalized communities (people who use drugs, people living with HIV, sex workers and LGBTI individuals). Trans people are in the focus of the advocacy work and Coalition Margins is providing legal and psychological support. Coalition Margins is advocating for legal gender recognition and is building the capacities of medical services providers for working with trans people.

Association Spectra<sup>8</sup> (hereinafter: Spectra) is the only trans-led organization in Montenegro, working on promotion and protection of human rights of transgender, gender diverse and intersex people. It was founded in March 2017 and registered in June 2017. It is a grassroots organization, with main focus on building a strong movement which will drive the change in the pursuit of bringing equality to our diverse community. Their work is implemented through several programs: community building program, advocacy program, program for public relations and program for education.

NVO EGAL<sup>9</sup> is a CSO from Serbia working in the field with trans and LGBTI community members, providing direct aid and support: protection from violence and discrimination, psycho-social support, HIV prevention, etc. The organization is active in raising visibility, standing up for the rights of LGBTI community, organizing public events (Pride Serbia, Transfrontall, and others), lobbying and advocating for legislative changes.

Gayten – LGBT<sup>10</sup>, founded in 2001, was the first organization in Serbia to acknowledge and base its work primarily on gender identity and expression. Its mission is to contribute to an end of all forms of violence and discrimination toward LGBTIQ people. Gayten's advocacy contributed to the adoption of legal provisions enabling body modification procedures for trans people to be covered by health insurance. Gayten builds and empowers trans, intersex and queer communities through support groups, LGBT SOS helpline, website, TIQ web forum, culture and arts, education, protest actions and networking.

The association Legebitra<sup>11</sup> from Slovenia has evolved from an informal group called Legebitra that was founded as a project of the Student Organisation of University of Ljubljana in 1998. Its mission is to improve position of and relation to LGBT persons on diverse levels and in diverse fields of life in Slovenia, by ensuring a safe space, dissemination of relevant and accurate information, education and awareness-raising, while at the same time drawing attention to inequalities in Slovenian society.

Transfeminist Initiative TransAkcija Institute<sup>12</sup> (hereinafter: TransAkcija) enables support, informing, empowerment and alliance of transgender and gender non-conforming persons in Slovenia, and is the

---

<sup>6</sup> For more information about Subversive Front, please visit the website: <http://s-front.org.mk/en>

<sup>7</sup> For more information about Coalition Margins, please visit the website: <http://coalition.org.mk/?lang=en>

<sup>8</sup> For more information about Spectra, please visit the website: <https://asocijaciaspektra.org>

<sup>9</sup> For more information about EGAL, please visit the website: <https://www.facebook.com/EgalBeograd>

<sup>10</sup> For more information about Gayten - LGBT, please visit the website: <http://transserbia.org>

<sup>11</sup> For more information about Legebitra, please visit the website: <https://legebitra.si>

<sup>12</sup> For more information about TransAkcija, please visit the website: [www.transakcija.si](http://www.transakcija.si)

first and only non-governmental organization devoted to human rights of transgender persons the country. TransAkcija's mission is addressing the specificity of needs of transgender and gender non-conforming persons holistically, aiming towards justice for people of all genders.

Pembe Hayat (Pink Life) LGBTT Solidarity Association<sup>13</sup> (hereinafter: Pembe Hayat) is the first and the largest registered transgender organisation in Turkey, founded in 2006 in Ankara. Pembe Hayat works in various areas related to transgender human rights such as human rights violations, legal and psycho-social support and consultancy, art and culture, capacity building and activist trainings, etc.

Social Policies, Gender Identity, and Sexual Orientation Studies Association - SPoD<sup>14</sup> - is an LGBTI+ rights organization focusing on social policies. Officially founded on 21 September 2011 in Istanbul, Turkey by a group of activists, academics and students, SPoD aims to develop and/or expand the rights and freedoms of LGBTI+ individuals both in terms of identity politics and social policies.

## **Albania**

Despite advancements towards the respect for the LGBTI rights, trans people in Albania do not fully enjoy rights related to their gender identity. Discrimination against trans individuals occurs in all spheres of life. They are often victims of hate speech and hate crime. Most trans persons live out of their family environment, in extreme poverty and social exclusion. Their rights are often denied because of their gender identity and expression. There is complete lack of visibility of elderly trans individuals. In July 2016, in the concluding observations of the Fourth CEDAW report on Albania, the Committee observed that disadvantaged groups of women, including lesbian, bisexual and transgender women, are not being effectively protected and are discriminated against as regards their access to health, employment, and housing among other areas

### Legal and policy framework

There is no legal gender recognition in the country or other laws exclusively applicable to trans individuals. There are also no laws that criminalize or pathologize gender identity and trans identities. As for official policies relevant for trans individuals, there is National Plan of Action for LGBTI persons in Albania (2016-2020). However, very little has been done in relation to achieving respect for the trans rights.

### Access to personal documents

Currently trans people do not enjoy the right to change their identity that is different from the gender assigned at birth. A new legal initiative of May 2018 from Pink Embassy, if approved by the Parliament, will make it easier for trans people to change their gender mark and change their identities in all official documents.

### Access to healthcare

There are no specific services or clinics for trans people. There is no hormone therapy and no sex confirmation procedures. They can use publicly available health services, but often face discrimination or refusal of services from health professionals on the grounds of their gender identity. Medical staff at all levels lack training and basic concepts on trans identities and for that reason trans people are usually viewed with suspicion and treated differently. Trans persons usually have to ask for healthcare

---

<sup>13</sup> For more information about Pembe Hayat, please visit the website: [www.pembehayat.org](http://www.pembehayat.org)

<sup>14</sup> For more information about SPoD, please visit the website: <http://www.spod.org.tr/en>

accompanied by individuals or organizations. They are often refused provision of healthcare if they are alone.

#### Access to justice

There is adequate level of access of trans people to the independent bodies in Albania, such as Commissioner for Protection from Discrimination and Ombudsperson. On several cases, they have ruled in favour of trans people. However, there is little access to the justice system for trans persons as the system is not trained to accept, respect and welcome them. The new legislation on free legal aid makes it possible for trans persons to receive free legal aid at any instance, if they fulfil conditions set by the law (level of income).

#### Access to education

The legislation on pre-university education guarantees protection from discrimination of trans children and youth. Yet only few teachers have been trained on LGBTI concepts. Because of the bullying in schools, trans youth suffers a lot and leave school very young, while very few trans persons have established their businesses and are successful. As a consequence, they are prone to work mostly as sex workers. There is no data on trans people attending public universities.

#### Access to housing

It is very difficult to find rental homes for trans people. They often face negative responses from the landlords. With the new Law on Social Housing, trans people could benefit and enjoy same access to social housing as every other person in Albania, providing they fulfil the conditions and criteria.

#### Position of trans individuals who are sex workers

The law criminalizes sex work in Albania. Thus, they are constantly in danger of being arrested and sentenced to imprisonment. Many trans people working as sex workers often complain of being victims of violence from small groups of gangs who steal their money or abuse them physically for being trans. According to local CSOs, they are constantly in life threatening situations.

#### Position of trans individuals who are detained or imprisoned

There is no information on any trans persons currently serving prison sentence in Albanian prisons. Few years back, two trans people were sentenced for theft and served at least 2 years in a male prison, based on their assigned gender at birth. However, the prison staff with assistance from CSO PINK Embassy held a training course on LGBTI rights, trans concepts and the prison officials made it sure not to let trans people live within the same rooms with other male prisoners.

#### Freedom of expression, association and peaceful assembly

The right to freedom of expression is generally enjoyed by the whole LGBTI community in Albania, but media uses profiles of trans persons to provide a picture of poverty and sex work for the whole community. This often creates conflicts within the community. CSO PINK Embassy Albania has held several meetings with media to inform them on how to report on trans issues and also has provided support to several trans persons to share their positive stories in the media, public meetings, conferences etc. *Historia Ime*, a news platform launched by CSO Pro LGBT, has published an online magazine dedicated only to trans community. The website has continuously published personal stories of trans people that have been often republished by the mainstream media (serving as a source not only to the public but also to the main media outlets). Despite several efforts, Albania still does not have an organization dealing exclusively with trans rights. There has been no documented violation in relation to freedom of peaceful assembly of trans persons.

## **Bosnia and Herzegovina**

Bosnia and Herzegovina (hereinafter: BiH) is divided into three federal units: two entities – the Federation of Bosnia and Herzegovina (hereinafter: FBiH) and Republika Srpska (hereinafter: RS) – and one district: District Brčko. FBiH is further divided into 10 cantons. Legislative authority for FBiH and RS reside in their respective law-making bodies. District Brčko is a special administrative unit within BiH. The Constitutions/statutes of each entity, district and canton govern the powers that they have over issues related to legislation. The central government's powers are limited.

Local CSOs report that the majority of LGBTI persons are not out about their sexual orientation and gender identity. As a result, the visibility of the community in BiH remains very low. Position of trans individuals and social perceptions towards them are very hard to measure. Trans persons in BiH are discriminated against in all areas of life on the basis of their gender identity and gender expression and are faced with a legal vacuum in terms of legal regulation of sex affirmation.

### Legal and policy framework

Article 2 of the Constitution of BiH prohibits discrimination. However, grounds such as sexual orientation, gender identity and sex characteristics are not included in the exhaustive list of protected categories.

The 2003 Law on Gender Equality in BiH expressly prohibits discrimination based on sexual orientation and gender. However, while subsequent articles cover direct and indirect discrimination in the fields of education, employment, social care, health care, sport, culture, public life and media, they do not consistently refer to sexual orientation.

The recently amended Law on Protection from Discrimination bans discrimination on the grounds of sexual orientation and gender identity by employing the updated accurate vocabulary. It also prohibits discrimination on the basis of association with a protected group, improves definition of harassment and sexual harassment and introduces victimisation as a form of discrimination. In addition, the Law prohibits discrimination on basis of sex characteristics, thus providing better protection for intersex persons. However, it does not forbid hate speech based on sexual orientation or gender identity.

Provisions which penalize incitement to hatred and violence are included on the grounds of gender identity in the Criminal Codes of FBiH and RS.

Article 8 of the FBiH's Labour Law explicitly prohibits discrimination on the grounds of sexual orientation. However, gender identity is not explicitly covered. The Brčko District Labour Law also protects individuals from employment discrimination on the basis of sexual orientation, while gender identity is also not explicitly mentioned. Labour Law of RS does not cover sexual orientation and gender identity explicitly as protected grounds of discrimination, but it prohibits discrimination on any characteristic not directly related to the nature of the work.

The recently adopted Law on Foreigners of BiH and the new Law on Asylum of BiH failed to recognise sexual orientation and gender identity as grounds for seeking asylum. The Law on Foreigners of BiH also omits the mention of sexual orientation and gender identity, which means omission from the anti-discrimination provision in the Law. Same-sex partnerships are not recognised as a basis for getting temporary residence in BiH.

The Constitution of BiH remains silent on gender eligibility for marriage.

The Antidiscrimination action plan published in April 2016 was the first national level policy of its kind to explicitly name LGBT people. However, measures covering LGBTI issues had not been implemented within the envisioned period.

#### Access to personal documents

According to Law on personal name, names can be changed at any time, and any name can be chosen. However, in practice, the registries require from trans persons to choose a gender neutral name. Trans individuals can only change the sex marker in their official documents after they have completed full medical transition - genital affirming surgery which includes sterilisation.

#### Access to health services

The lack of medical and financial support makes it difficult for trans persons. Both the endocrine therapy and surgical procedures have to be done abroad and such costs are not covered by the state-funded health insurance. Trans individuals go either to Zagreb, Croatia, where part of the gender affirming process is available (psychological support, hormonal therapy and mastectomy) or Belgrade, Serbia, where all trans-specific services in regards to transition are available, but much more expensive, less accessible and with a long period of waiting.

According to an ILGA-Europe study, LGBTI people in BiH do not feel comfortable sharing their sexual orientation to a health care practitioner. However, the percentage increased when asked if the information provided was necessary for proper medical care (56%). Meanwhile in the same study 80.8% of LGBTI people surveyed did not know whether health care providers in their country were sensitive to the health needs of LGBT people. This also reveals that a vast majority of LGBT people have never spoken about their sexual orientation or gender identity to a health care practitioner. Finally, 8.2% of the people said they felt to have been treated worse because of their perceived sexual orientation or gender identity.

#### Violence and access to justice

LGBTI community in BiH reports very high number of cases of psychological abuse and verbal harassment by people on the streets who are also the main perpetrators of physical violence. The Institution of the Ombudsperson recorded 8 cases of discrimination based on SOGI in 2015 and 11 in 2014. The cases of discrimination occurred in the services sector, health sector, by border authorities, in the workplace and as a public incitement to discriminate against LGBT persons.

CSO Sarajevo Open Centre (hereinafter: SOC) reported that in December 2015 a 14 year-old boy from Sarajevo committed suicide after suffering bullying and sexual violence in school over an extended period of time. The boy's parents and peers have claimed that he was a victim of violence and that his classmates had forced him to kiss a male friend while they were recording the incident and that they tied and raped them with a rolling pin. The Institution of the Ombudsperson and the Prosecutor of Sarajevo Canton announced that they would conduct a detailed investigation of the incident. In March 2016 they published a report stating that no evidence was found which would confirm the claims made by parents and that nothing in this case indicates that a crime was committed. To the request of SOC sent to Cantons and RS to put up posters with messages that homophobic and transphobic peer violence will not be tolerated only three out of ten agreed.

#### Freedom of expression, association and peaceful assembly

There were no attempts to organize a pride parade in BiH, but there are other significant and visible LGBTI-themed events. Many of them have been marred by attacks generated by homophobia and transphobia.



There have been an attempt to organize public gathering of LGBT community in Sarajevo marking Trans Visibility Day in March 2018, which was prohibited by the State. This case was followed by the press conference and protest of CSO Sarajevo Open Centre.

## **Croatia**

LGBTI rights in Croatia have expanded in recent years, but LGBTI persons may still face some legal challenges not experienced by non-LGBTI residents. The majority of population is still strongly affected by the religious views of the dominant Catholic Church in the country, which are perceived as discriminatory to LGBTI communities. Reduced support for LGBTI CSOs and independent media voices was a cause of concern for activists in Croatia. Government funding for the Zagreb Pride was cut for the first time in 2017. Community media outlets, including LGBTI websites, also lost institutional support. LGBTI activists continued to provide support, including legal guidance for people who had been subjected to violence because of their sexual orientation or gender identity, as well as training for lawyers, victim support staff and the judiciary.

### Legal and policy framework

Right to change legal gender in Croatia is legal. Following a four-year legal battle with public authorities, an 18-year-old boy was allowed to change his personal documents without undergoing sterilising gender reassignment surgery. With his mother's support, the boy had followed hormonal therapy and had lived in his true gender for a long time. His mother led a legal battle to change his documents without an operation, which authorities insisted on despite the law not requiring it. The Constitutional Court of Croatia eventually ruled that the Ministry of Public Administration had to change the documents. Several bodies, including the Ministry of Health and the National Health Council, amended their procedures to reflect the new jurisprudence.

Legal gender recognition is regulated through the Law on State Register and Guidelines on the method of collecting medical records and determining the terms and conditions of a "sex change" or about life in a different gender identity (adopted in 2013), which provide trans persons the right to change their gender marker in their personal documents without undergoing any medical interventions (including sterilisation and hormone replacement therapy). There are two ways to access legal gender recognition in Croatia. First being based on "sex change", which includes providing opinions of psychiatrist, psychologist, endocrinologist and Social welfare centre to the National Health Council. Second is based on "life in other gender identity" and includes providing opinions of psychiatrist, psychologists, and Social welfare centre. In both cases, National Health Council provides opinion based on submitted documents to the County Office within the timeframe of 30 days, after which a person can change their documents. It is important to say that only opinion of medical experts who are on the List of experts provided by the Ministry of Health is valid in these cases.

However, the inadequacies of the legal gender recognition process are still present. The bodies responsible for its implementation seemed to be ignoring prescribed timelines, putting trans individuals in a difficult position, as they wait for a response. 22 people had their gender legally recognised by the National Health Council in 2016. There were 10 applications still pending at the end of the year, some of whom had been waiting over six months for a response, according to CSO Zagreb Pride.

The 2008 Anti-Discrimination Law includes sexual orientation, gender identity and gender expression on the list of protected categories against discrimination when it comes to access to either public and private services, or to access to establishments serving the public.

Other anti-discrimination directives that prohibit discrimination based on gender, gender expression, and/or sexual orientation have been included in various pieces of legislation since 2003, including Penal Code, Gender Equality Law, Media Law, Labour Law, Asylum Law etc. On 1 January 2013 new Penal Code has been introduced with the recognition of a hate crime based on gender identity.

#### Access to personal documents

As gender transition is legal in Croatia, birth certificates may be legally amended to recognise this. Up until June 2013 the change of gender always had to be stated on an individual's birth certificate. However, on 29 May 2012 it was announced that the government would take extra steps to protect transexual and transgender people. Under the new rules, the undertaking of gender affirming surgery no longer has to be stated on an individual's birth certificate, thus ensuring that such information remains private. This is also the case for people who have not formally undergone gender affirming surgery, but have nevertheless undertaken hormone replacement therapy.

According to Eurobarometer Discrimination in the EU in 2015 report, that a transgender or transexual person should be able to change their civil documents to match their inner gender identity was agreeable to 44%, disagreeable to 39%, and 17% didn't know.

#### Access to education

Problems with diplomas still remain in many cases. However, recently, Ministry of education provided guidelines for Universities and schools to change diplomas for trans people who have their gender marker changed in their documents.

#### Freedom of expression, association and peaceful assembly

Pride events and other LGBTI-oriented happenings are being organised in several cities across the country, with the largest one occurring annually in Zagreb.

## **Kosovo**

Even though not a member of the United Nations or the Council of Europe, in Article 19 of its Constitution, Kosovo gives precedence to international law and takes upon itself the direct applicability of the Universal Declaration of Human Rights and European Convention for Protection of Human Rights and Fundamental Freedoms. Article 22 refers to the direct applicability of international agreements and instruments.

#### Legal and policy framework

While still very traditional and conservative, Kosovo is one of the only 10 countries in the world, which has banned discrimination on the grounds of sexual orientation in its Constitution (Article 24). Although there are no laws criminalising trans identities, this cannot be taken to mean that trans people's rights are being effectively protected in Kosovo. Gender Identity is recognised in the anti-discrimination law.

Kosovo has no legal gender recognition. It is not regulated by law. Gender reassignment is not provided in the country.

In 2016, Kosovo adopted a new law on Gender Equality. It includes an updated definition of gender identity, protecting "the gender related identity, appearance or other gender related characteristics of a person (whether by way of medical intervention or not), with our without regard to the person's designated sex at birth".

Also, the definition of marriage in the Constitution of Kosovo remains liberal. It makes no reference to gender, thus allowing for such case to be brought forward to the Constitutional court. However, the Family Code of Kosovo defines marriage as a union between a man and a woman.

Equality measures on LGBTI rights have been difficult to implement in Kosovo despite the existing legislation. For many years since the passing of anti-discrimination law, governments have failed to pass new laws or amend existing ones for years and policies have not changed fundamentally until 2015.

With regards to policy, in 2014 the Kosovo Government, through the Prime Minister's Office for Good Governance set up the Coordinating and Advisory Group for the rights of LGBT community. The aim of this group has been to form partnerships and cooperation between local/national institutions, international community and the LGBTI organisations operating in the country. In 2015 the group prepared the first one-year action plan which aimed to hold activities that would further raise awareness on LGBTI rights. The same group has been working until recently to launch a new Action Plan 2016-2018 which aims to monitor the implementation of the Law for Protection from Discrimination, strengthen institutional capacities on the topic etc. Government initiative however has been considered weak by the LGBTI movement and observers and no specific actions have been undertaken to significantly change public perceptions towards LGBTI people.

#### Access to personal documents

Trans individuals have no right to change their personal documents. On 4 April 2018, a trans person filed an official Request to change the name and gender marker in the Civil Status Registry at the Civil Status Office at municipality of Gjakova. The Request had two requirements: to change the name from typically female to typically male and to change the gender marker from female to male (F to M). The request argued that the name and the gender marker in the Civil Status Registry has to be changed because the submitter identifies and lives as a man, while his identification documents contain a gender marker that does not comply with his gender identity. The request on changing personal documents was denied from the Civil Status Office.

#### Access to healthcare

The state of Kosovo doesn't provide any kind of healthcare for its citizens.

#### Violence and access to justice

Trans people do face discrimination and violence, but they do not declare their gender identity for security reasons. As trans community is one of the most marginalised groups, with high level of invisibility, there is no data regarding violence or discrimination cases. Trans individuals who are sex workers exist, but there is no adequate data on their position. There is no information on the position of trans individuals who are detained or imprisoned.

#### Access to housing

Since there is no adequate shelter for trans individuals in Kosovo, local CSOs cooperate with the Tirana Shelter in Albania and send all LGBTI individuals in need there.

#### Trans individuals using drugs and other illegal substances

There is no official data on drug users, but it is concern from local CSOs that a worrying amount of young people from trans community uses illegal substances.

## Freedom of expression, association and peaceful assembly

Right to peaceful assembly is guaranteed, but with strong support from the police. In October 2016 ERA – LGBTI Equal Rights Association in partnership with the Kosovo Government, and in closer cooperation with its members in the country - CEL Kosovo and CSGD Kosovo, hosted the first regional conference “Why laws are not enough! Towards inclusion and equality of LGBTI people in the Western Balkans and Turkey”. The event was attended by more than 120 participants from governments, civil society sector and others from the whole region and international community. In 2017, first Pride was organized in Kosovo, with no incidents reported.

## **Macedonia**

Trans persons in Macedonia face high level of discrimination and are victims of hate crime. Yet, they remain invisible within the Macedonian system. No legal gender recognition is available. There are no legal, medical or social services provided for trans people by the state institutions. Many laws covering SOGI are still in a draft phase. CSOs play the most important role in protection of the rights of trans individuals, but often face lack of capacities. There is complete lack of visibility of elderly trans individuals or trans individuals who are detained or imprisoned.

### Legal and policy framework

Gender identity is not included in any law. However, there is progress with some laws which are in draft. No legal gender recognition is available. Progress is made with positive decisions of the Administrative court in two legal gender recognition cases. Coalition Margins has started with advocacy for adoption of a Law on legal gender recognition with Ministry of labour and social policy and Ministry of justice, but the process is still in the starting phase. The Law against domestic violence does not explicitly include or exclude trans people, so by law we can say that they can be protected from domestic violence, but this does not happen in practice. There are also no laws that criminalise or pathologise gender identity and trans identities. The new Law on free legal aid is in the draft phase. The branches of the Ministry of justice are entitled to provide free legal aid, but the provisions do not cover protection from discrimination. Trans persons can demand free legal aid in the cases where they are victims of crime, but the strict conditions, distrust and the unacceptability of the ministry is a barrier. Legal services specifically for trans people are provided only by CSOs. As of June 2018, the Government of Macedonia approved the amendments to the Law for Protection from Discrimination to add SOGI as grounds for protection. It is expected for Parliament to approve these changes without opposition.

National Action Plan on Gender Equality includes measures against discrimination on the ground of gender identity in education. However, nothing has been implemented so far. The realisation of these measures still depends from the CSOs. In the healthcare system, there is a protocol on the procedure of "treatment of transsexualism" which should allow health services for medical gender confirmation, but the protocol is poor and it is not implemented.

### Access to personal documents

In general, trans persons are not able to legally change the documents according to their gender. According to local CSOs, only three trans individuals have managed to change their personal documents fully so far (name, sex marker and personal number).

### Access to healthcare

Medical services for trans people are almost completely unavailable. Some of the medical services for gender confirmation (prescription of hormonal therapy and psychiatric diagnoses) can be available if the

trans person visits the doctors with a referral from a CSO. There are no accessible mental health services for trans persons in order to have a smooth social transition and cope with psychological processes they are facing. For the other services trans people usually need to go to Belgrade, Serbia. All those services are not financially covered by the Health insurance fund, so only trans people who have more wealthy families supporting them can access it. One private hospital performed the first medical gender confirmation surgery in capital of Skopje, and now they are offering the service in Macedonia, but the cost is almost the same as in Belgrade. Trans individuals often face stigma and discrimination by health professionals, in particular trans women who identify as Roma.

### Violence

Trans persons are usually victims of violence in public places. Verbal, physical, structural and psychological violence they are facing is part of their everyday lives.

### Access to education

Trans people very often report harassment and violence in schools, with few cases of serious physical injuries. Schools do not have policies and protocols, nor services for prevention or protection in the cases of discrimination, bullying and violence based on SOGI. Only CSOs provide capacity building services to school employees on prevention of bullying and peer education programs on comprehensive sexual education. Many trans persons are not finishing their secondary education because of harassment and violence they face in schools. Trans individuals who are students or have finished higher education are usually trans men, who have enjoyed minimal support from the family.

### Access to employment

According to local CSOs, almost every trans individual is unemployed. Few of them work in CSOs dealing with LGBTI rights and sex work. Trans women are mostly sex workers, or at some point in their life were offering sex services.

### Access to housing

There are no special programs for social housing for LGBTI persons. There were few cases documented where trans persons reported discrimination and unequal treatment in the access to housing, when trying to rent an apartment.

### Trans individuals using drugs and other illegal substances

There is no empirical data available, but trans people, and more specifically trans women, are more likely to abuse substances. Considering the fact that treatment against drug addiction is really poor and unavailable in every municipality, the access to treatment for trans people can be even more difficult.

### Position of trans individuals who are sex workers

Trans women sex workers are the most vulnerable group. Coalition Margins has documented 21 cases of the violation of the rights of sex workers during 2017, among which 18 cases related to trans women. Also from 22 documented cases of violation of the rights of LGBTI persons, 15 cases victims related to trans women sex workers.

### Socio-economic rights of trans individuals

Without adequate access to education and employment, without support from the families, trans individuals are usually poor and socially excluded. The state does not have social welfare programs specific for trans people. The first LGBTI safe house was opened in 2017 by the CSO "LGBTI Support centre", which provides services for trans people who are victims of violence and discrimination.

## Freedom of expression, association and peaceful assembly

There are no legal barriers on freedom of expression, but the realistic fear of violence and discrimination is an obstacle for practicing this right in reality. According to local CSOs, there were only few trans persons who had openly spoken about their gender identity, after which they faced hate speech, bias judgements and stigma. Macedonia is still to have registered first trans community based organisation. The CSO LGBTI support centre in the period between 2012-2014 was violently attacked 6 times, and the perpetrators are still not found. There still has not been a public community based gathering or event for trans community.

## **Montenegro**

Despite increased visibility of trans people in public spaces and empowering of the trans movement through forming a first trans-led organisation in Montenegro - Association Spectra, trans people are still less visible than LGB part of the community, more prone to violence and discrimination, due to the general lack of knowledge regarding trans issues and strict patriarchal gender norms and roles. Research on attitudes of general population on LGBT persons, conducted by Queer Montenegro, Juventas and Institute for legal studies, from 2016, shows that even 13% of citizens of Montenegro claim that violence toward LGBT people is acceptable. Even with much greater visibility of LGBT persons in public life in Montenegro, around 90% of citizens doesn't know personally any LGBTI person. Furthermore, 90% persons believes that LGBTI community members are only gays and lesbians, with 31% of people who have never heard of the term "intersex" and 19% for the term "transgender". Further, Research on attitudes of candidates for members of Parliament about important issues for LGBT population, conducted in 2017 by Centre for Monitoring and Research (CEMI), Queer Montenegro and CSO Juventas, showed general lack of knowledge about trans issues. Even 40% of respondents showed no knowledge whether being transgender is illness, and only 8% knows someone who is trans. 79.3% responded that they don't know whether a trans persons should have a right to change their gender mark after gender affirming surgery.

## Legal and policy framework

Legal gender recognition in Montenegro is covered through the Law on National Registers and Law on Central Registers of Population, which provide the right to trans persons to change gender marker in cases of "sex change". Since the Law does not provide clear clarification of the procedure of changing gender marker for a trans person, it is susceptible to free interpretation in practice by the Ministry of Internal Affairs, which by the rule requires a person to undergo gender affirming surgery and bring a "proof" by medical practitioner that this intervention has been performed.

There are no laws which criminalise gender identity, or strictly pathologise it. However, there is a Law on Health Insurance which provides the right to trans persons to have their transition costs covered by the State insurance. The Law can be implemented in practice only by fulfilling the criteria prescribed by the Guidelines for determining criteria for medical reasons of "sex change", adopted by the Ministry of Health. These criteria include "positive opinion" of seven medical practitioners, among others – a psychiatrist, who is diagnosing trans individuals with mental health diagnosis F.64. *Transsexualismus*.

Trans individuals have a right to marry the person of the "opposite sex" after they change the gender marker. However, since the Law on life partnership of same-sex couples is not yet adopted, this right is limited to trans people as well.

In the terms of other Laws and national legislation, the Law on prohibition of discrimination strictly prohibits discrimination on ground of gender identity, as well as Law on gender equality, which includes protection not only of women and men, but also "people of different gender identities".

The only relevant policy which assess needs of trans people is national Strategy for improvement of life quality of LGBT people 2013-2018. This policy is targeting needs of trans people mostly through health care system, and with the latest Action Plan for 2018, in the terms of providing support for forming of a working group for creation of the Law on gender identity. The focus of Montenegrin CSOs at this moment regarding national policies and legislation is on introducing a comprehensive Law on gender identity which will provide legal gender recognition without any medical requirements, according to the practice of European Court and international standards. This would be an important step towards legal gender recognition based on self-determination.

#### Access to personal documents

According to the Law on protection of personal documents, nobody can access personal documents, without the court order, only in cases of risks for national security or criminal charges. When a trans person changes their gender marker, they receive a new personal identification number, with no record of the change.

Trans persons face obstacles in access to personal documents. The denial of first name change to one trans woman has shown clear violation of the Law on personal name by Ministry of Internal Affairs. After advocacy made by CSO Spectra, in cooperation with CSO Queer Montenegro, Ombudsperson established discrimination by the state and provided recommendations for Ministry, which were not implemented by the date of submission of this report.

#### Access to healthcare

In Montenegro, there is a part of trans-specific health care, which includes access to psychiatrist, psychologist, endocrinologist, and surgeons who perform mastectomy in the Clinical Centre of Montenegro. Hormonal replacement therapy is available and covered by State Fund, but in practice there are problems in lack of therapy in healthcare centres and pharmacies, which forces trans persons to buy them abroad, mostly in Serbia, where hormonal therapy which includes estradiol is sold on black market by much higher prices. For genital gender affirming surgeries, trans persons go to gender team based in Belgrade, Serbia, which has a signed contract with Montenegrin State Insurance Fund. State Insurance Fund covers 80% of all medical transition costs which is regulated by the Law on Health insurance. Part of medical practitioners in Montenegro are educated about affirmative approach to trans specific health care by CSOs Spectra, Queer Montenegro and Juventas.

#### Violence and access to justice

Law on prohibition of discrimination provides protection against discrimination based on gender identity. Additionally, Criminal Code describes hate crime based on gender identity as aggravating circumstance when determining sentence in cases of violence against trans people, as well as hate speech. However, since the amendments of this Law were introduced in 2013, not a single case of hate crime or hate speech was categorized as such by the Prosecutor's office. Most recent case of violence was towards a trans woman, who was brutally beaten up on a street, near her home, while some of the passengers were supporting attackers. This happened in September 2017, after Pride March, where she was visible. After she reported the case, inspector responsible for her case tried to persuade her to drop charges, after the identification of the attacker, which she refused. After the Prosecutor proceeded with the case, there were no more information about it, and case is still pending.

### Access to education

Trans individuals can access education without any restrictions. Law on primary education and Law on higher education provide availability of education to every person, regardless of their personal characteristics, but do not mention sexual orientation and/or gender identity specifically. Further, Ethical Code of Student Home requires teachers and tutors to protect every student's safety, security and privacy, as well as to promote tolerance and respect of differences among students. In March 2018, a trans student, living in Student Home of Podgorica, experienced violence and harassment in the Student Home by several students, after constantly being bullied by them and being rejected in his demands toward tutors to respect his gender identity. After efforts put by the team of CSOs Spectra, Queer Montenegro and Juventas, this student was protected by the above mentioned institution, the case was reported to the police, and the management of Student Home provided every measure to ensure his safety and respect. This is a good example of cooperation for the wellbeing of this particular trans minor. However, there is still a lot of space for improvement and education among the staff of the Student Home, as well as school staff, which often refuses to respect chosen name and pronouns of trans students, without parents making a request, or to provide support to the student and the family.

### Access to employment

Trans individuals can officially access employment without any restrictions. In practice, there were several cases of employers refusing to employ a person once they acknowledge their identity, especially in cases of non-compliance between person's gender and personal documents. However, trans persons in these cases were not willing to report discrimination. In addition, Law on labour prohibits discrimination based on sexual orientation, but not gender identity.

### Access to housing

There are no official restrictions to housing of trans persons. However, owners of houses and apartments are not always willing to accept trans persons who have their documents with their gender marker assigned at birth. Of course, there are some examples of good practices, but basically it is up to the individual preference of the owner.

### Trans individuals using drugs and other illegal substances

CSO Spectra has provided social services to trans people using drugs, mostly young people who use party drugs, which is an emerging problem in general among young people. The support services for youth using drugs are lacking, due to the very limited funding resources, which are further limited to trans organisations. The only services for people using drugs are the one for people who inject drugs, and there have been some cases of trans people who we instruct to CSO Juventas services.

### Position of trans individuals who are sex workers

There are several trans sex workers who are users of social services of CSO Spectra. Sex work is not criminalised in Montenegro, but it is penalized by the Law on public peace and order, which prohibits "prostitution on public spaces" and stipulates the fine of 200-1000 euros or 30 days of prison for violation of this article. However, trans sex workers are facing discrimination and violence in a high degree, with a lot of cases of harassment. All of these cases are being reported by CSOs Spectra and Queer Montenegro, but they notice the lack of will of police to act upon these cases. From 2014, Montenegro has HIV epidemic among MSM persons, and this is affecting trans sex-workers, who are in particularly difficult position due to poor economic conditions, discrimination and obstacles facing in access to employment and healthcare.

### Position of trans individuals who are detained or imprisoned



There is no official data about trans prisoners. However, Research on level of discrimination of LGBT people in Institution for Execution of Criminal Sanctions, conducted by Jovan Ulićević through CSOs Juventas and Queer Montenegro, showed that there are no policies in the Institution for Execution of Criminal Sanctions, especially in regards to searches, accommodation and protection from violence against trans people. However, the Institution showed the willingness to cooperate, which leaves space for introduction of protection policies in the prison system.

#### Socio-economic rights of trans individuals

Trans people are facing poverty even in higher degree than the rest of the population due to difficulties in finding employment. There are no trans-specific provisions within social protection system or any benefits to employers who are employing trans individuals, which leaves them in situation where they have to find alternative ways of making money for living.

#### Position of elderly trans individuals

There have been some cases of elderly trans persons who have used services of CSO Spectra. From their experience, elderly trans people are facing multiple discrimination, especially in rural areas, since they are less likely to use internet and social media as tools for gathering information and reaching out to organisations which deal with trans and/or LGBTIQ rights. However, support and information was provided to some of these people, with much more outreach work needed to be done in this area in the future.

#### Freedom of expression, association and peaceful assembly

There are no restrictions in enjoying the right to freedom of expression, freedom of association and freedom of assembly to trans individuals. In Montenegro, CSO Spectra is operating as the only trans-led organisation in the country. Pride parades have been organized regularly with no major incidents reported. ERA's Annual conference was successfully organised in Montenegrin capital of Podgorica in September 2017.

## **Serbia**

Serbia has no law regulating legal gender recognition, while the existing (unofficial and unregulated) procedure requires sterilisation. People of different gender identities in Serbia (as well as of different sexual orientation) are subject to discrimination and violence, including physical violence, threats and cyber bullying. It is also unfortunate that young LGBTIQ people, after parents and their family members learn about their sexual orientation and gender identity, are rejected by the family, which is why they are forced to leave their homes. Poverty affects almost every trans individual in Serbia (due to the limited access to job market), including older trans individuals as well.

#### Legal and policy framework

Biggest legal gap concerning the situation of trans persons and their rights is lack of provisions regulating legal gender recognition. Apart from that, there are four laws that specifically protect trans people: Anti-discrimination Law, Criminal Code, Law on Police and Law on Youth. However, the overall implementation of these provisions is poor.

If married and with children, before changing legal documents, trans persons have to divorce, or it is done automatically, since same-sex partnership/marriage is not available in Serbia. Parental rights are questionable, but so far the practice has shown that based on the legal documents change and gender reassignment surgery, parental rights can be at least partially obtained, but in line with the "old" identity.

With new documentation and chosen gender, this is not the case. In addition, if the new Law on Amendments of the Law on Registry Books is adopted in its current form, the rule books supporting it will pathologise gender identity: the surgical procedures including sterilisation will most likely become a mandatory step in obtaining personal documentation.

Serbia has a Strategy for Prevention and Protection from Discrimination (2013-2018) and relevant Action Plan for its implementation, adopted by the Government of Serbia in October 2014. According to the Action Plan, some important measures were supposed to be implemented in the Serbian system, including creating a secure environment for the vulnerable groups, such as LGBTI people, conducting efficient investigation to perpetrators of discrimination and hate crime cases and improving overall legal framework to eliminate discrimination in connection with marriage and family life, education, provision of services etc. One of the most important measures was to take concrete steps for drafting the Law on Gender Identity. CSO Gayten-LGBT proposed a model of Law on Gender Identity in 2013, created in accordance with the recommendations of the United Nations, the Yogyakarta principles, Council of Europe and other relevant recommendations. This model law provides transgender people with the protection from discrimination and a series of rights (the right to change name and sex marker regardless of medical treatment, the right to employment, insurance, marital and family life, health care, the prohibition of forced sterilisation and other). However, no actions for implementation were taken by the State so far. Action Plan following Chapter 23 of EU Accession process is also of relevance, but concrete results are still to be expected.

#### Access to personal documents

There is no systematic and regulated legal solution for changing personal documents. Since there is no law regulating legal gender recognition, the existing practice varies from municipality to municipality. However, the main (unofficial) procedure is based on the decision of the Constitutional Court of Serbia from 2012, stating that local registrars are responsible to make changes in birth certificates based on the medical documentation of “sex change”, same as they are after the child is born. This means that medical certificate of “sex change” is required, that is issued by the surgical part of the medical Belgrade gender identity team, after the genital surgery and sterilisation, thus breaching human rights of trans people. Additional problem is that in some municipalities trans people are, in addition to this certificate, still required to undergo humiliating procedures, such as measurement of genitals (as reported by CSO Gayten-LGBT even in 2017). The best and the most developed practice is in the Serbian capital of Belgrade. Trans persons outside of Belgrade and other bigger cities encounter problems and rejection of requests. According to CSO Egal, at least 1 in 3 persons trying to change documents after the surgery are experiencing discrimination, stigmatisation, and long lasting bureaucracy procedures.

#### Access to healthcare

The leading issues in the field of healthcare for trans population in Serbia include existence of only one medical gender team in the whole country and psycho-pathologization of the gender confirmation process – a person is required to undergo mental health assessment and receive psychiatric diagnosis, a process that rarely lasts less than one year, in order to receive referral letter to endocrinologist, and, later, to surgical team. Additional problem is that mental health professionals, up until one year ago, didn't issue referral letters for hormone and surgical treatment to trans people other than transexual, and access to medical treatment for transgender and non-binary people is still an issue in Serbia. Up until 2017, there was only one endocrinologist working with trans people, who recently trained two more specialists. Local CSOs will closely monitor future people's future experiences with them. In order to undergo any body-modifying treatment (hormone treatment and surgical interventions), person has to be 18 or older, while

puberty blockers are officially not available in Serbia, which has devastating consequences for young trans people's mental and physical health (especially related to certain surgical interventions that could be avoided by this treatment). When it comes to available hormone treatment, there is the issue of shortage in the market, but also financial issues – not all hormone products are covered by public health insurance. Since 2012, 65% of the cost of gender confirmation surgeries is covered by general health insurance, but sterilisation is a requirement for legal gender recognition. Although trans people are at risk of poor mental health due to adverse life circumstances, they are not recognised as such, nor mentioned in national strategies or guidelines dealing with mental health in Serbia. Trans persons living outside biggest cities in Serbia face even more difficulties in terms of adequate access to healthcare.

### Violence and access to justice

According to CSO Egal, it is estimated that high percentage of all violence and discrimination acts towards LGBTI community was experienced by trans community members. At first instance, violence and discrimination are not being reported regularly and adequately, due to fear of further stigmatisation, secondary victimisation and discrimination, as well as the opinion that the authorities will not be able to do much and solve the problem. Even when they are reported to the authorities, to the police as the first instance, incidents of homo/transphobia occur quite often, if the incident is being reported individually without representatives of CSOs being present. When and if the case reaches judiciary, the processes are very slow and guarantee little or no support to the victims. Practice of protection from violence and discrimination is poorly developed. No case of attack on trans individuals was recognized as hate crime, even though Criminal code of Serbia recognises crimes committed on the grounds of SOGI also as aggravating circumstance since 1 January 2013.

### Access to education

School drop-out rate is very high due to general hostility towards trans and LGBTI individuals. Bullying among peers and attitudes of professionals are not favourable. Lack of adequate personal documents is a huge obstacle for continuing higher education, as well as obtaining/changing a diploma in line with gender identity. Another obstacle is related to difficulties to obtain certificate of their education with adequate data. In 2012, reacting to a complaint of a trans person whose request to the Faculty of law to reissue their diploma with data after LGR, Serbian Commissioner for protection of equality issued an opinion that the Faculty of law violated provisions of the Law on the Prohibition of Discrimination and recommended them to reissue the new diploma, which they eventually did. However, CSOs working with trans community still intervene in situations when legal departments of educational institutions in Serbia refuse to issue diplomas with new data.

### Access to employment

Trans persons are discriminated against in the workplace, though there is very little data available on discrimination in employment in Serbia. The LGBTI population in Serbia ranked the enjoyment of economic and social rights and the elimination of discrimination in employment as their second highest priority for change. Trans individuals are generally in a very difficult position in relation to employment and labour rights, and this is also recognised in the Anti-discrimination Strategy. Research on the position of trans people has indicated a mismatch in the educational levels and jobs held by trans people in Serbia.

### Access to housing

In majority of cases, family members are not supportive to trans persons, which influences the experience of homelessness, especially among teenagers. There are no adequate measures for protection and

support of homeless trans individuals. If economically stable and searching for housing, they often face rejection by the landlords, usually based on gender expression which varies from the normative and difference between their gender expression and their legal data, due to lack of adequate legal gender recognition procedure.

#### Position of trans individuals who are sex workers

According to the information from everyday work of CSO Egal, it is a fact that it is very difficult for trans people to find a job, especially before obtaining new personal documents. Some trans individuals are working as sex workers, which increases the stigma they face on multiple levels and makes them more vulnerable to violence and sexual health risks, including HIV. Some research conducted in cooperation with Gayten-LGBT showed that around 11% of trans persons in Serbia are sex workers. Information on multiple discrimination is not available, except in isolated cases.

#### Position of trans individuals who are detained or imprisoned

CSO Gayten-LGBT maintains regular contact over the phone with two trans prisoners in Serbian prisons and they both claimed that they are treated with respect, including protection from violence and the usage of their gender-specific names that are not formally in their valid documents.

#### Freedom of expression, association and peaceful assembly

Freedom of assembly, association and expression is regulated and guaranteed by Serbian laws. Several large scale events, as well as smaller local level LGBTI events, took place every year across the country, including marking the internationally important days for the LGBTIQ community, etc. The Pride Parade has been held peacefully in Belgrade every September for the fourth year in a row. No incidents were reported during Pride Serbia in Belgrade, happening every June. This has paved the way for enjoyment of the right to assembly for LGBTIQ people. All these events included trans community as well. However, strong presence of police is still required. Freedom of association and peaceful assembly are guaranteed by the general Law on public gathering and the Constitution of Serbia. There are no particular obstacles for the trans community in that sense.

## **Slovenia**

Being trans in Slovenia is still challenging, as traditional value systems are very much present. Trans persons still face discrimination and social exclusion. Extensive lack of legal and social authentication and legitimisation, structural and societal silencing, intentional exclusion and invisibility of trans persons and topics are some of the biggest challenges. Trans community in Slovenia has been systematically organizing to address structural issues and offer mutual support for the past four years. There were important individual actions and attempts to address the issues faced by trans persons before 2014, however they were sporadic and lacked continuity.

#### Legal and policy framework

Equality before the law based on different personal grounds is enshrined in Article 14 of the Constitution of the Republic of Slovenia. Gender identity is not explicitly mentioned, however the article contains a phrase “or any other personal grounds” which also implies gender identity. In the Protection Against Discrimination Act (enacted in 2016) discrimination based on gender identity and gender expression is explicitly forbidden. The act is the first legal document in Slovenia explicitly mentioning gender identity and gender expression as protected grounds.

The Register of Deaths, Births and Marriages Act enables persons to have their gender legally recognised (changing their gender marker) and entered in the register. The law provides no guidance as to the criteria to be taken into consideration by the “competent health care provider or medical doctor” in determining whether a person has “changed their gender”, nor does it provide guidance as to which health care provider or medical doctor is competent to issue a certified statement clearly stating that a person has changed their gender. In the past 4 years, the majority of persons seeking legal gender recognition obtained the mentioned certified statement from a psychiatrist that diagnosed them with gender dysphoria (F64 Gender Identity Disorder as defined in the International Statistical Classification of Diseases and Related Health Problems, Tenth Revision, Australian Modification). The law does not explicitly require a person seeking legal gender recognition to undergo any compulsory sterilisation procedures. However, the majority of persons obtained a certified statement from their psychiatrist after starting hormone treatment and proving to the psychiatrist that they have been living in their actual gender for a period up to a year or more.

There are no legal measures for the state to annul or downgrade a validly concluded marriage if a person has their gender legally recognized after the marriage has been validly concluded. Furthermore, the current legal provisions regulating marriage do not require a person to be divorced or to downgrade their marriage to same-sex civil partnership to access legal gender recognition. The state has a positive obligation to protect any validly concluded marriage and cannot interfere in this right unless this interference is necessary to protect other rights (Articles 15 and 53 of the Constitution of Republic of Slovenia). A marriage is void if (among others) concluded contrary to Article 16 of the Marriage and Family Relations Act, which stipulates that a marriage is concluded between two persons of different gender. Article 3 of the same Act defines two different genders as a woman and a man. However, if substantive requisites of marriage change during the validly concluded marriage, there are no legal measures to enable state authorities to annul the marriage or downgrade it to same-sex civil partnership.

#### Access to personal documents

Regulation of Execution of the Register of Deaths, Births and Marriages Act defines legal gender recognition as a relatively quick administrative procedure as the application for legal gender recognition is submitted to one of the administration units in Republic of Slovenia. After the administration unit issues a new birth certificate reflecting one’s own gender (without reference to the previous gender), the person can apply for new documents (e.g. identity card, passport, health insurance card, driver’s license etc.). This is accessible only to persons aged 18 or more and with full legal capacity. There are no legal provisions for a third gender options.

The majority of persons seeking legal gender recognition also apply for name change under the Personal Name Act. This procedure is separate from the procedure for obtaining a new gender marker (described above) and does not require any medical certificate. A person can submit both applications at the same time to the same registry officer. Both applications are then processed simultaneously. Personal names are usually gendered in Slovenia, however there are no provisions requiring that a personal name has to match gender marker. The procedure for changing one’s name is accessible to minors (with parental consent) whereas the procedure for changing one’s gender marker is not. Access to name change is barred for persons who have been convicted by final judgment for a criminal offence prosecuted *ex officio* until the punishment is executed or until there are no legal consequences in effect. There are no such limitations for the changing one’s gender marker.

#### Access to healthcare

Trans persons who are insured can access all health services including trans-specific health services for free. If a person is not insured, then they must pay for all health services or access these at one of three clinics for persons without medical insurance. These clinics do not offer trans-specific health services. A larger issue in Slovenia is the quality of health services, especially trans-specific services. As Slovenia is a small country, there is only one interdisciplinary team for medical gender confirmation. Another issue is the fact that one of two psychiatrists in Slovenia is a gate keeper when it comes to accessing hormones, surgeries or any other trans-specific medical procedures. CSO Legebitra received reports from transgender persons that the approach to trans persons by the psychiatrists and clinical psychologists is frequently demeaning, intrusive, offensive and/or based on stereotypes.

There is no information whether a person who has undergone legal gender recognition procedure still has the same access to certain preventive health programmes and screening tests (for example for cervical cancer, testicular cancer).

#### Violence and access to justice

Trans persons have access to justice and can ask for protection against violence and discrimination. However, this does not mean that they do not encounter any difficulties. There is high level of transphobia present in general society, as well as within the LGB+ community. According to local CSOs, the rise of the right wing and immense strength of the Catholic Church within the country creates a very hostile environment for all minorities, trans persons included. Apart from work of CSOs, there are more or less no resources that include trans people in any social, educational, legal or other systems, resulting in trans persons carrying extreme internalized transphobia and disbelief of being valid and worthy of wellbeing, care and access to services, let alone having information and self-confidence about how to receive such access and be accommodated within them as trans individuals with specific needs which should be acknowledged and considered.

#### Access to education

Trans persons have access to education. However, this does not mean that they do not encounter any difficulties. Education is something trans persons aren't denied by legislation, however the state's violation of human rights in the scope of legal gender recognition is something that has a strong deciding factor for young trans persons not deciding to enter or postponing entering educational process, mostly high school and/or university. They simply do not want to be in school and not be able to live by using their chosen name and having documents that match their gender identity. According to CSO TransAkcija, many trans individuals are not attending or even enrolling into school/university and rather staying at home and not gaining any knowledge, as this is safer for them and better for their mental health, even if they are aware of important consequences that come with not accessing education. Apart from this, trans people have access to state funded education, however these environments are not safe for them. In TransAkcija's 2015 survey of Needs of transgender persons in Slovenia 42% of respondents reported experiencing discrimination based on their gender at school/university. There are no legal provisions regulating the process of issuing educational certificates reflecting one's own gender. Educational institutions, public and private, have thus been reluctant to change gender on educational certificates. This is very concerning, as Slovenian language is gender specific and gender is reflected in the title(s) acquired during education. This presents a major obstacle for trans persons to either continue with their education (e.g. enrol to university with a high school certificate that does not reflect their actual gender) or enter the labour market (with educational certificates that do not reflect their actual gender).

#### Access to employment and housing

Trans persons have access to employment and housing. However this does not mean that they do not encounter any difficulties. There is no trans specific space in the country. Even CSO TransAkcija doesn't have an office (not for lack of trying), resulting in community building being largely dependent on initiatives by individuals, offering homes and private resources for movement building and assuring safer spaces. There is also no information at what age a person who has undergone legal gender recognition procedure is retired – at the age of current legal gender or legal gender with which the person entered employment market.

#### Freedom of expression, association and peaceful assembly

These rights are guaranteed by constitution and international legally binding documents. In 2014 Legebitra organised the first national expert meeting on transgender issues – TransMisija, which is now organised every year in November by CSO TransAkcija. Since its' establishment in 2015 Legebitra has been cooperating with TransAkcija especially on the issue of legal gender recognition (LGR). Both organisations are members of Transgender Europe – TGEU.

## **Turkey**

Turkey continues to rank 1<sup>st</sup> in Europe and 9<sup>th</sup> in the world when it comes to transphobic hate murders. The state of emergency declared in the wake of the attempted coup of 15 July 2016 remains in force in Turkey. Fundamental rights have been considerably curtailed under the state of emergency and pursuant to the decrees issued under it. Civil society came under increasing pressure, notably in the face of a large number of arrests of activists, including human rights defenders, and the recurrent use of bans of demonstrations and other types of gatherings, leading to a rapid shrinking space for fundamental rights and freedoms. It is not safe and easy for trans people to come out. The families and relatives of trans individuals are more difficult to accept and cherish their children. Their families can repudiate them, can take away their inheritance rights, even commit hate crimes. High risk of suicide, violence, and murders continue being relevant. Faced with social exclusion and unemployment, trans individuals are in a much higher risk of poverty.

#### Legal and policy framework

Sexual orientation and gender identity are still not recognised under Turkish law. Article 27 of the Civil Code of Turkey defines the right to change the name. Article 40 of the Civil Code of Turkey also recognises rights associated with the gender transition process, but pathologizes trans identities, asking for medical transition approved by a court as well as a state hospital. In March 2018, the Constitutional Court of Turkey has decided to eliminate sterilisation as mandatory, but in the field, it is seen that this requirement is still valid.

Although trans identities are not criminalised, arbitrary rule and use of power by law enforcement officers continue criminalising trans people. Misdemeanour Act Law is arbitrarily practiced on trans people (especially trans women) to file them administrative fines on causes such as disturbing public peace, blocking the traffic, etc. The Constitutional Court in 2018 overruled the practice of Misdemeanour Act Law on trans people and sex workers because it has no legal ground and it was unlawful. However, the court verdict was referring to administrative fines filed under article 37 of Misdemeanour Act Law. The police officers still continue filing administrative fines.

Sexual orientation and gender identity are recognised under prison management regulations. The Ministry of Justice published a chapter on sexual orientation and gender identity for their trainings toward

psycho-social workers in prisons. When open, LGBTI+ people are isolated either in singular cells or in separate group rooms where possible, but isolated from the rest of the prisoners. They lack access to services and facilities in the prisons.

#### Access to personal documents

A trans person who goes through gender reassignment surgery and has a granted court verdict on legal gender change, enjoys changing his/her legal documents except for birth certificate. Some universities, high schools and elementary schools refuse re-arranging the diploma on the request by the trans person after legal gender change granted. This is a big problem which might expose trans individual to employers, or any other person and institution. Besides, for any document renewal and change, trans persons have to make individual requests to each institution. The change is not automatically applicable.

#### Access to healthcare

The Social Security System in Turkey requires every citizen with a residency (registered address) to get themselves registered in the general health insurance system (GSS). It is for people who are unemployed (or unregistered workers). The municipal social solidarity fund calculates the cumulative amount of income at the residency divided into how many persons reside in that residency, which results in how much insurance fee that citizen will pay in the system. Unfortunately, some of trans individuals do not have a registered residency (either due to security reasons, or they are homeless, etc.) so when they are working in unregistered sector such as sex work or when they are unemployed, they can't have access to this system.

The fear of stigmatisation in access to health and the non-conformity of legal names on the ID and gender-specific names are causing difficulties in access to health due to fears such as "embarrassment and mocking". Trans individuals may prefer paying for healthcare services in private hospitals or clinics in order to avoid discrimination, long waits and stress caused by a risk of mockery and embarrassment. Trans people are sometimes refused to be served by gynecologists (this problem is more common in state hospitals). Some trans people privately go through gender confirmation surgery without going through the legal procedures or medical procedures.

#### Violence and access to justice

Unfortunately, trans individuals are experiencing serious difficulties in accessing justice in Turkey. Trans individuals and trans sex workers already have no trust and do not believe in the justice system. Trans women are subject to hate crimes and Turkey ranks 1<sup>st</sup> in Europe when it comes to transphobic hate murders. At the same time, there is a lack of legal framework defining hate crimes in Turkey. According to local CSOs, trans individuals face all kinds of discrimination and violence in accessing justice. The transphobic attitudes and insensitivity of law enforcement officers, judges, and lawyers, helplessness, and increased violations of rights cause serious difficulties for trans individuals to access justice. The violence and lack of access to justice increases the suicide level as well. The police ignore complaints, do not care, keeps them waiting for hours. They do not investigate properly the cases. Even if the person is a trans sex worker, they can write him/her administrative penalty even though he/she is a victim. They can hold him/her for hours in an arbitrary way at the police station. The situation is also concerning even if the complaints are assessed at the Prosecutor's office, as the victim easily becomes a suspect. Criminals are rewarded with impunity, while trans victims are looked at as potential criminals. The judges generally reduce the sentences to perpetrators and murderers on the basis of unjust provocation when they defend themselves with a sentence (almost in all the cases) such as: "I thought he was a woman and he was not. I was deceived". The three-year follow-up of the CSO Red Umbrella shows that 786 violations of rights



have been committed against trans individuals and trans sex workers. 10 suicides, 12 murders and 24 sexual abuse cases as a result of transphobia is another detail in the records. The actual numbers of these violations are probably higher. Within CSOs, trans-individuals and trans-sex workers have organised several capacity building trainings.

#### Access to education

The number of trans individuals at the universities in Turkey is low. Many of them start with transition process at the end of the university studies, and some of them prefer to conduct it secretly if they have started the process. Although LGBT student communities exist, the impact and visibility is not enough in terms of trans individuals. The number of trans individuals who left their education at universities because of stigmatisation, discrimination and exposure to hate speech is quite large.

#### Access to employment

According to local CSOs, unfortunately, neither the private sector nor the state have enough support for the employment of trans individuals in Turkey. Whilst most of trans individuals hold on to life by sex work, some of them are struggling in their everyday life with the remaining heritage share from their family, help of partners, or work as animators in touristic areas, beauty salons, pavilions, belly oriental dancing or LGBT CSOs.

#### Access to housing

Trans individuals couldn't rent a house before. According to local CSOs, nowadays the situation has changed. But this change was entirely brought by a system of exploitation. If the house rent is offered for a certain price, it is rented to a trans person for twice the price. Real estate "gangs" are making profits over trans individuals. The same situation occurs when trans individuals want to buy a house. Shelters and freight houses ignore trans individuals.

#### Position of trans individuals who are sex workers

Sex workers in Turkey are divided into registered and unregistered domain space. Trans individuals can have the right to work in brothels if they are transsexuals. But if the trans individual is an individual who has not completed the transition process, they must remain indifferent. Trans women sex workers are constantly confronted with gangs, criminal groups, police. The tribute gangs accelerate the impoverishment of trans women sex workers on the one hand by the everyday oppression of the police and irregular administrative penalties. Any sex worker (including trans women sex workers) who was detained by a police officer is forcedly brought to HIV testing. They are being registered (unofficially) and in cases where a person is HIV+ police forces them to emigrate from the city. Their houses are sealed and they experience all kinds of violence. Unfortunately, the majority of trans women sex workers are involved with substances such as alcohol and drugs.

#### Position of trans individuals who are detained or imprisoned

There are trans individuals in prison in Turkey. They are being subjected to violence by guards and even to sexual assault. Health and education rights are not provided in prison. According to trans individuals, prison conditions are inadequate and discriminatory. Personal needs such as epilation, care products, etc. are not provided. One trans individual was imprisoned and could not reach vegan food and some other basic self-care tools, so she went on hunger strike for a while. CSO SPoD has supported her via pro bono lawyers and support letters. CSO Pembe Hayat has a prison-related program since November 2014. The

data report from November 2014 till end of 2016 shows us that there are 70 trans women prisoners who directly benefited from their clothing bank support, as well as legal and psycho-social services. Some of the prisoners are kept in isolation (singular cells) who never meet other prisoners. Trans women prisoners are enrolled in the male section of prison campus due to their legal gender marker in ID card. Trans women foreigners in prisons are not allowed to stay together with Turkish citizens. They lack access to any kinds of services and they are not provided interpretation. Two HIV+ prisoners were not allowed access to proper medication.

#### Freedom of expression, association and peaceful assembly

There was further backsliding in the area of freedom of expression, assembly and association in Turkey. LGBTI marches, including in Istanbul and Ankara, were banned for security reasons for the third year in a row. Pembe Hayat's Pink Life Queerfest screenings were banned twice, which eventually brought a generalised ban on LGBTI events and activities in greater Ankara Province area by Ankara Governorship. The detention and release under judicial control of an activist following his social media posts regarding Ankara governor's ban on LGBTI events for an indefinite period is testimony of the pressure exercised against activists in this field. Although there was legal request to Ombudsman and Administrative Court, the requests to stop the execution of ban was rejected. In February 2018, an Administrative Court rejected the request of two CSOs to lift the execution of this ban.

## **Sources and useful links**

1. Being LGBTI in Eastern Europe: Reducing inequalities and exclusion, and combating homophobia and transphobia experienced by LGBTI people in Albania  
<http://www.lgbti-era.org/sites/default/files/pdfdocs/0342%202017%20ENG%20Being%20LGBTI%20in%20Eastern%20Europe%20Albania%20National%20Report.pdf>
2. Being LGBTI in Eastern Europe: Reducing inequalities and exclusion, and combating homophobia and transphobia experienced by LGBTI people in Bosnia and Herzegovina  
<http://www.lgbti-era.org/sites/default/files/pdfdocs/0343%202017%20ENG%20Being%20LGBTI%20in%20Eastern%20Europe%20Bosnia%20and%20Herzegovina%20National%20Report.pdf>
3. Decision of the Constitutional Court of the Republic of Croatia No. U-III-3173/2012 from 18 March 2014 (on access to changes of name and sex marker in personal documents; available in Croatian):  
[https://narodne-novine.nn.hr/clanci/sluzbeni/2014\\_04\\_46\\_872.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2014_04_46_872.html)
4. Being LGBTI in Eastern Europe: The former Yugoslav Republic of Macedonia Country Report  
<http://www.lgbti-era.org/sites/default/files/pdfdocs/0341%202017%20ENG%20Being%20LGBTI%20in%20Eastern%20Europe%20-%20Macedonia%20National%20Report.pdf>
5. Without laws, it's all worthless – The needs of LGBTI community in Macedonia  
<http://s-front.org.mk/wp-content/uploads/2017/11/Research-report-Without-laws-its-all-worthless-S-Front-2017.pdf>
6. Analysis of the anti-discrimination legislation in the Republic of Macedonia in relation to sexual orientation and gender identity  
<http://s-front.org.mk/wp-content/uploads/2016/12/Analiza-ENG-UberFinal-CIP-Korica.pdf>
7. Report on SOGI-based discrimination, violence and bullying among youth in Skopje  
<http://s-front.org.mk/wp-content/uploads/2016/04/Report-from-the-survey-on-SOGI-based-discrimination-violence-and-bullying-among-youth-in-Skopje.pdf>

8. Transgender experiences: identities, bodies, violence and socialization (available in Macedonian): <http://coalition.org.mk/publikacii/transrodovoto-iskustvo-identiteti-tela-nasilstvo-i-sotsijalizatsija/?lang=en>
9. Research on attitudes of candidates for members of Parliament about important issues for LGBT population in Montenegro (available in Montenegrin) <http://cemi.org.me/wp-content/uploads/2017/05/Prezentacija-istra%C5%BEivanja-%E2%80%9CNacionalno-ispitivanje-stavova-kandidata-za-poslanike-o-LGBT-pravima.pptx>
10. Research on level of discrimination of LGBT people in Institution for Execution of Criminal Sanctions in Montenegro (available in Montenegrin) <https://asocijaciaspektra.files.wordpress.com/2018/04/izvjestaj-o-pravima-lgbt-osoba-u-ziksu-final.pdf>
11. Research on attitudes of general population on LGBT persons in Montenegro (available in Montenegrin) <http://juventas.co.me/me/publikacije/741-attitudes-towards-lgbt-population>
12. Being LGBTI IN Eastern Europe - Serbia Country report: A participatory review and analysis of the legal, institutional, policy and socio-economic environment for lesbian, gay, bisexual, transgender and intersex people, and civil society <http://www.lgbti-era.org/sites/default/files/pdfdocs/0344%202017%20ENG%20Being%20LGBTI%20in%20Eastern%20Europe%20Serbia%20National%20Report.pdf>
13. Model Law on Legal Gender Recognition in Serbia (available in Serbian): <https://www.transserbia.org/images/stories/dokumenta/model-zakona-o-trans-rodnim-osobama.pdf>
14. Overdiagnosed and Underserved - Trans Healthcare in Georgia, Poland, Serbia, Spain, and Sweden: Trans Health Survey [https://tgeu.org/wp-content/uploads/2017/10/Overdiagnosed\\_Underserved-TransHealthSurvey.pdf](https://tgeu.org/wp-content/uploads/2017/10/Overdiagnosed_Underserved-TransHealthSurvey.pdf)
15. The Research on the Needs of Transgender persons in Slovenia (available in Slovenian) <http://transakcija.si/2016/09/14/rezultati-raziskave-potreb-transspolnih-oseb-v-sloveniji/>
16. Appeal to hold execution of "LGBTI events ban in Turkey" rejected by Administrative Court <http://www.lgbti-era.org/news/appeal-hold-execution-“lgbti-events-ban-turkey”-rejected-administrative-court>
17. Report of Monitoring Human Rights Violations Based on Sexual Orientation and Gender Identity in Turkey in 2013, 2014, 2015, 2016 and 2017 (published in cooperation with Kaos GL - available in Turkish): <http://pembehayat.org/yayinlar.php?id=1635>
18. 19 June 2016 Istanbul Trans Pride Parade Human Rights Observation Report (in cooperation with Kaos GL, LISTAG, SPoD - available in Turkish): <http://pembehayat.org/yayinlar.php?id=1152>
19. Homophobic and Transphobic Hate Speech in Media Report 2016 (published in cooperation with Kaos GL - available in Turkish): <http://pembehayat.org/yayinlar.php?id=1419>
20. Trans Women Imprisoners in Turkey, 2017 (available in Turkish, with summary in English): <http://pembehayat.org/yayinlar.php?id=1437>
21. Trans Rights Europe Map 2018 [https://tgeu.org/wp-content/uploads/2018/05/SideB\\_TGEU2018\\_Print.pdf](https://tgeu.org/wp-content/uploads/2018/05/SideB_TGEU2018_Print.pdf)
22. Being Trans in the EU – Comparative Analysis of the EU LGBT Survey Data: <http://fra.europa.eu/en/publication/2014/being-trans-eu-comparative-analysis-eu-lgbt-survey-data>

23. ILGA-Europe Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015  
[https://www.ilga-europe.org/sites/default/files/01\\_full\\_annual\\_review\\_updated.pdf](https://www.ilga-europe.org/sites/default/files/01_full_annual_review_updated.pdf)
24. ILGA-Europe Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2017  
[https://www.ilga-europe.org/sites/default/files/Attachments/annual\\_review\\_2017\\_online.pdf](https://www.ilga-europe.org/sites/default/files/Attachments/annual_review_2017_online.pdf)

## **List of contributors**

1. Altin Hazizaj, PINK Embassy, Albania
2. Streha, Albania
3. Pro LGBT, Albania
4. CEL Kosova, Kosovo
5. Viktorija Bondikjova, Subversive Front, Macedonia
6. Antonio Mihajlov, Subversive Front, Macedonia
7. Dragana Drndarevska, Coalition Margins, Macedonia
8. Jovan Ulićević, Spectra, Montenegro
9. Egal, Serbia
10. Jovanka Todorović, Gayten-LGBT, Serbia
11. Jelena Vidić, Gayten-LGBT, Serbia
12. Eva Gračanin, Legebitra, Slovenia
13. Linn Julian Koletnik, TransAkcija, Slovenia
14. Janset Kalan, Pembe Hayat, Turkey
15. Emirhan Deniz Celebi, SPoD, Turkey
16. Vuk Raićević, ERA – LGBTI Equal Rights Association for Western Balkans and Turkey