



Aleanca LGBT, PINK Embassy Albania, Pro LGBT, Streha, ERA – LGBTI Equal Rights Association for Western Balkans and Turkey and ILGA World

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

1 October 2018

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Statement of Interest

1. ERA – LGBTI Equal Rights Association for Western Balkans and Turkey in close partnership with its members: Aleanca LGBT, PINK Embassy Albania, Pro LGBT and Streha; and with technical support from ILGA World is submitting this Written Contribution to the 3rd Cycle of the Universal Periodic Review of Republic of Albania, which focuses on the position of LGBTI persons in the country.
2. ERA – LGBTI Equal Rights Association for Western Balkans and Turkey¹, 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 and objectives to strengthen capacities of LGBTI organisations in the region, lobby and advocate nationally, regionally and internationally for LGBTI rights and strengthen and improve the visibility of LGBTI movement and communities.
3. Aleanca LGBT² is an Albanian CSO that envisions a free from discrimination, open and equal Albanian society that embraces diversity and is inclusive of people of all sexual orientations and gender identities. The Mission is to: enhance and protect human rights, support, empower and increase the visibility of the LGBTI communities and LGBTI sex workers in Albania; strengthen advocacy tools and capacities to ensure meaningful participation on policy level and development and implementation of programs that addresses LGBTI and LGBTI sex worker's issues and to document the human rights abuses they face.
4. PINK Embassy Albania³ is a non-profit organisation which works for the protection and advancement of the rights of LGBTIQ persons 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.
5. Pro LGBT⁴ aims to eliminate discrimination based on sexual orientation and gender identity by raising awareness of the general public, including through alternative media and progressive public displays, advocating for the improvement of the legal framework and strengthening the LGBTI community itself, encouraging the cooperation with other actors of civil society and aspiring to give optimistic messages throughout our work.
6. Streha⁵ 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.
7. International Lesbian and Gay Association - ILGA (International lesbian, gay, bisexual trans and Intersex Association)⁶ – the International LGBTI Association, is the world federation of national and local organisations dedicated to achieving equal rights for LGBTI people across the globe, established in 1978.

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

² For more information about Aleanca LGBT, please visit the website: <http://www.aleancalgbt.org/en/>

³ For more information about PINK Embassy Albania, please visit the website: <http://www.pinkembassy.al/en>

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

⁵ For more information about Streha, please visit the website: <http://strehalgbt.al/?lang=en>

⁶ Organization with ECOSOC consultative status. For more information about ILGA World, please visit the website: www.ilga.org

Legal and Policy Framework

Overview

8. During the previous review⁷ of Albania, Albania stated it had joined the global fight against discrimination on the basis of gender and sexual orientation, and measures were being implemented in collaboration with relevant government structures, civil society, international organizations, academia and independent institutions, including legislative review, public awareness activities, and capacity-building among police, social workers and health workers. Awareness-raising activities had previously taken place during the week against homophobia, which had resulted in increased public awareness.
9. During Cycle II of the UPR Albania received 3 SOGI recommendations. Argentina recommended⁸ to study the possibility of strengthening the measures to fight discrimination, in order to eradicate the trend and/or the dissemination of stereotypes that lead to discrimination on the grounds of sexual orientation.
10. The authorities have been working modestly in this regard. Few campaigns and awareness meetings have been organised by the LGBTI organisations but mostly the Government, especially at the local level, has shied away from actively working to eradicate stereotypes that lead to discrimination.
11. France recommended⁹ to intensify efforts in the fight against all forms of discrimination, in particular against lesbian, gay, bisexual, transgender and intersex persons (LGBTI) and minorities, by fully implementing the Law on Protection against Discrimination (LPD), while Portugal recommended¹⁰ to continue to take steps to fully implement the LPD in relation to discrimination based on sexual orientation and gender identity (SOGI).
12. In overall, the authorities and the Commissioner for Protection from Discrimination (CPD) have been working to fully implement the law, but yet because of discrimination, lack of training and general awareness many institutions are far from implementing the law. Health care professionals, teachers and police largely remain uninformed on the legislation and how to implement it.

Constitution of Albania

13. Albania's Constitution¹¹ does not offer specific protection to LGBTI persons. Though the Article 18 states the grounds for prohibition from discrimination it does not mention SOGI.
14. In 2017 the Albanian Parliament proposed several amendments to the Constitution. One of the proposed changes was to modify Article 18 and to add to the text words "SOGI". Despite positive expectations, several MPs attacked this change using hate speech and discrimination against LGBTI people¹². Several religious leaders shared publicly their negative position on such changes¹³. Few days before the approval of the constitutional changes, the governing party retracted their

⁷ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 104.38.

⁸ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 101.

⁹ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 105.13.

¹⁰ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 105.14.

¹¹ *Constitution of Albania*, Law No 9904, date 21.4.2008, last amended by Law No 76/2016, date 22/7/2016, Article 18 states: Official Journal: <http://www.qbz.gov.al/kushtetuta.html>

¹² Statement from PINK Embassy on the matter: <http://www.pinkembassy.al/en/hate-will-never-move-forward-citizens-and-nations>; and more info (in Albanian) available here: <http://www.gazetadita.al/mesila-doda-me-kembengulien-tone-u-shfuqizua-neni-per-martestat-gay/>

¹³ More info available here (in Albanian): <http://www.gazetatema.net/2016/07/22/kush-i-tradhetoi-lgbt-shba-be-avokati-i-popullit-apo-logaritjet-politike/>

support for the changes in the article 18 of the Constitution and as a consequence the article was not amended.

Resolution on Protection of Rights and Freedoms of persons belonging to the LGBTI community in Albania and LGBTI National Action Plan 2016-2020

15. On May 7th 2015, the Albanian Parliament passed a resolution entitled “On Protection of Rights and Freedoms of persons belonging to the LGBT community in Albania¹⁴” (the Resolution). The Resolution details a number of legal and policy reforms that the Albanian government should undertake to improve the living conditions of LGBTI people. Among the recommendations were the adoption of a national LGBTI action plan, diversity training for teachers and greater support for the Ombudsman and CSOs.
16. Based on the recommendations made during Albania’s EU accession process, as well as on the Council of Europe Committee of Ministers’ recommendation “On measures to combat discrimination on grounds of SOGI”, the resolution was passed, which was followed by the adoption of the LGBTI National Action Plan 2016-2020 (NAP). Further, the Resolution urged the revision of the legal framework in the area of human rights. It approved the recommendations of the PA in relation to amendments of the Labour Code¹⁵.
17. The Resolution, apart from calling upon Ministry of Education and Sport (MoES) to train teachers and other education workers to ensure better protection of LGBTI persons, called for effective prohibition of discrimination on the grounds of SOGI and for greater institutional cooperation with LGBTI organisations in order to combat homophobia and transphobia. Additionally, the Resolution called on the Ministry of Social Welfare and Youth (MoSWY) to conduct inspections on the implementation of anti-discrimination provisions by employers, in order to guarantee their practical implementation. Further, the resolution nominated the Ombudsman to monitor observation of the fundamental and constitutional rights of LGBTI persons in Albania. At the end, the Resolution called for government support to CSOs.¹⁶
18. Ever since only few trainings have taken place by organisations like Council of Europe (CoE) and LGBTI CSOs, training teachers and students. MoSWY then and now Ministry of Health and Social Protection have lacked initiative to conduct any inspections on the implementation of anti-discrimination provisions by employees. Only few meetings following the NAP have happened between the ministry, CSOs and other actors as part of the NAP. The institutional cooperation has been improved and CSOs have gained importance.
19. By adopting the NAP, Albanian LGBTI citizens benefit from the protection of two National Human Rights Institutions: the People’s Advocate (Ombudsman) and the CPD, even though the policies of Albania urge institutions and private establishments to comply with anti-discrimination laws. These achievements in policy and legislation have led to a contradictory situation combining an outward appearance of legal protection and higher visibility of LGBTI persons with hostility and discrimination still prevalent within key institutions. The government lacks the capacity to

¹⁴ Parliament of the Republic of Albania (2015) Resolution on the protection of the human rights and freedoms of LGBTI people, http://www.qbz.gov.al/botime/fletore_zyrtare/2015/PDF-2015/77-2015.pdf

¹⁵ In compliance with Article 10 of Directive 2000/78/EC of the European Commission

¹⁶ Being LGBTI in Albania, Merita Poni, UNDP Albania Country report 2017, p. 39,

http://www.eurasia.undp.org/content/rbec/en/home/library/democratic_governance/being-lgbti-in-eastern-europe--albania-country-report.html

implement policies and laws that can benefit LGBTI persons. There is little awareness-raising among civil servants, health professionals and law enforcement officers about the rights of LGBTI persons and discrimination on the grounds of SOGI.

20. The importance of raising awareness among teachers and students on LGBTI issues is clearly stated in both the Resolution and the NAP. This awareness raising meetings are foreseen in the third priority area of NAP, where employment, education, health, housing and sport are included. Based on that, a series of trainings were held in Tirana high schools as discussions amongst students, activists, school teachers and school psychologists. These trainings sparked a series of openly discriminatory reactions and hate speech by different politicians and important media actors.
21. Even though this debate was on for about a week, it was disappointing that there was no official statement from the Ombudsman and the CPD, that have repeatedly recommended the improvement of school curricula and training of teachers, in order to educate children in a safe environment. The controversy stopped the remaining trainings for high schools that were supposed to be delivered with the support of Municipality of Tirana and Ministry of Health and Social Protection, which was very disappointing.

Labour Law

22. During the Cycle II of Albania¹⁷, the State delegation stated there were proposals to amend the Labour Code to broaden the concept of non-discrimination on the basis of SOGI in matters of employment and vocational training.
23. The Labour Code¹⁸ amended in December 2015¹⁹, prohibits discrimination in employment and professions on the grounds of SOGI. Article 9 defines discrimination as any differentiation, exclusion or preference threatening the individual right to be equal in terms of employment and treatment. Article 32 states that moral and sexual harassment and derogatory comments against the employee's dignity and personality are prohibited.
24. Despite the positive amendments the reality shows that LGBTI persons face high levels of discrimination by employers. In 2017, Alliance LGBT reported 43 cases of discrimination in workplaces and/or job recruitment and selection. These included cases of LGBTI people having difficulties in finding work because of stigma and prejudice; experiencing sexual harassment during job interviews; or being fired because their employer has found out about their LGBTI status.

Family Law

25. During the Cycle II²⁰ of Albania, the State delegation stated there were proposals to amend the Family Code concerning cohabitation for LGBTI persons.
26. The Albanian Constitution does not prohibit same-sex marriage. Article 53 states that everybody has the right to get married and have children. However, the Family Code of Albania defines marriage only between a man and a woman.

¹⁷ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 101.

¹⁸ Labour Code of the Republic of Albania, Law No. 7961, dated 12.07.1995, last amended 2015, <http://www.qbz.gov.al/Kode-pdf/Kodi%20i%20Punes-2016-qershor.pdf>

¹⁹ The law entered into force in June 2016.

²⁰ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 101.

27. Albania didn't take any steps to amend the Family Law regarding cohabitation of the LGBTI persons, despite the fact that the MoSWY (now Ministry of Health and Social Protection) drafted legal proposals for the changes to take place. The situation from the policy makers side remains the same, even though from the side of LGBTI CSOs the advocacy continues through debates and lobbying.
28. LGBTI organizations in the country have asked the Albanian government to recognize same-sex couples and their right to enter into civil unions. The request has been to amend articles 163 and 164 of the Family Code to allow for gender neutral cohabitation and to recognize the rights of same-sex couples in related to property, inheritance and health/social insurance. Until now the Albanian government has failed to approve this request and take it to Parliament.
29. On 17 May 2018, PINK Embassy Albania asked the Parliament and the Ministry of Justice (MoJ) to open the discussion on equal marriage as required by the Albanian Constitution for third year in a row, in an open letter sent to all the parliamentary groups and the Minister²¹. The Parliament and the Minister of Justice answered that the discussion will be open only when other changes to the Family law take place. Albania is currently overhauling its justice system and many major laws are changing including the Family Code. However, there is no deadline on when such changes shall take place.
30. Ombudsman²² and CPD²³ have made requests to MoJ for amendments of Family Code. In December 2013, LGBTI CSOs asked the MoSWY to support the legal recognition of same-sex civil unions.²⁴ MoSWY forwarded that request to the MoJ in 2014.²⁵ To date, the MoJ has not begun any initiative to amend the Family Code. The legal recognition of same-sex partnership in Albania was also supported by the Council of Europe, during the implementation of the first National Action Plan on LGBTI people 2012-2014.²⁶
31. The Family Law does not guarantee the right of LGBTI couples to adopt or have children via artificial insemination. This limits some patrimonial rights.

Amendments regarding Gender Identity and Expression

32. During the previous review²⁷ of Albania, The Netherlands welcomed Albania's commitment to promoting equal rights for lesbian, gay, bisexual and transgender persons and preventing discrimination, and hoped that would lead to legislative amendments regarding gender identity, gender expression and hate speech.
33. In May 2018, PINK Embassy proposed to the Albanian Parliament changes in two laws related to gender recognition²⁸. The first one relates to proposed changes in the gender marker regulated by the Law on Civil Registration, while the second one is a new law that would regulate the gender identity recognition. If both laws are approved Albanian legislation would be in compliance with

²¹ More info available here: <http://www.pinkembassy.al/en/pink-embassy-submits-albanian-parliament-draft-law-recognition-gender-identity>

²² Correspondence of the PA with the Minister of Justice, 2013, print version distributed by the PA office.

²³ CPD (2014a) *Special report on Rights of LGBTI people in Albania*, (Komisioneri per Mbrojtjen nga Diskriminimi: Raport i veçantë për mbrojtjen dhe respektimin e të drejtave të komunitetit LGBTI në Shqipëri),

<http://www.pinkembassy.al/sites/default/files/uploade/Raporti%20i%20Vecante%20i%20KMD%20per%20LGBT%202014.pdf>

²⁴ Source: Interviews with the leaders of LGBTI organizations, conducted in September 2016.

²⁵ Source: Interviews with representatives of the MoWSY, conducted in September 2016.

²⁶ Council of Europe Office in Tirana, Previous Programmes, Fight against Discrimination Based on Sexual Orientation or Gender Identity, , <http://www.coe.int/en/web/tirana/fight-against-discrimination-based-of-sexual-orientation-or-gender-identity>

²⁷ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 85.

²⁸ More info available here: <http://www.pinkembassy.al/en/pink-embassy-submits-albanian-parliament-draft-law-recognition-gender-identity>

international human rights standards. The Parliament is expected to open a discussion on this issue later in 2018.

Commissioner for the Protection from Discrimination (CPD)

34. As part of the LPD, CPD is appointed and serves for a five-year term and submits an annual report. Parts of the CPD's competencies are: to examine complaints, take polls in connection with discrimination, publish reports, make recommendations and meet with CSOs.
35. During the previous review of Albania, Montenegro highlighted²⁹ the appointment of the CPD and the adoption of the LPD. It noted efforts to integrate LGBT persons. The State delegation stated³⁰ that CPD had examined complaints alleging discrimination based on SOGI and had initiated an *ex officio* investigation in that field. The delegation provided information on the CPD's decisions and the sanctions imposed, and on training and outreach activities across the country. The CPD's competencies covered the private as well as the public sector.
36. In 2018 a new CPD was appointed, which seems supportive of the LGBTI rights. However, there are several cases of LGBTI discrimination pending consideration, and so far no decision has been yet taken from the CPD's office. It is important to highlight that the law doesn't provide deadlines when a decision shall take place.
37. Based on the report of the CSOs and based on the very small number of reports to the CPD, the lack of trust of LGBTI persons to report to this institution is obvious. In 2015, out of hundreds of cases before the CPD, four complaints of discrimination on the basis of SOGI were processed.³¹
38. Besides CPD, Albania also has an Ombudsman³² that is required to address human rights, including LGBTI rights³³.

Access to justice

Law enforcement

39. During the previous review³⁴, Ireland welcomed progress, including in protecting the rights of LGBT persons, and asked about the implementation of the previously accepted recommendation to educate police officers on sexual orientation issues.
40. There have been attempts from side of CSOs to change the curricula of the Academy of Police to include information about LGBTI people, but it was not possible. Last year, with the support of CoE, a Manual on detecting Hate Crimes on grounds of SOGI was developed and is part of the extra curricula of the Academy of Police. There has also been a series of trainings for 150 police officers based on the manual across Albania³⁵. The CPD also trained more than 500 police officers on the concept of protection from discrimination³⁶. However, the police force remains largely

²⁹ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 83.

³⁰ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 64.

³¹ Commissioner on the Protection from Discrimination (2015) *Annual Report 2015* (Komisioneri per Mbrojtjen nga Diskriminimi Raport Vjetor), <http://www.kmd.al/?fq=brenda&gj=gj1&kid=142>

³² Law No.8454, date 4.2.1999, amended by law no.8600 date 10.04.2000, changed with law no.9398, date 12.05.2005

<http://www.avokatipopullit.gov.al/en/ligji-p%C3%ABr-avokatin-e-popullit>

³³ The Ombudsman can make reports on situation of LGBTI people, recommendations for legislative changes, and monitor the situation and treatment of LGBTI people by public institutions.

³⁴ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 76.

³⁵ More info available here: https://www.coe.int/en/web/tirana/news/-/asset_publisher/SENeHJ2ESzrW/content/new-guide-and-support-to-policing-hate-crimes-against-lgbti-community-in-albania?_101_INSTANCE_SENeHJ2ESzrW_viewMode=view/

³⁶ Joint-report on the implementation of the LGBTI Action Plan in Albania, Ministry of Health and Social Protection, 2018

untrained and uninformed on LGBTI rights and there is still need to further increase their capacities.

Protection from violence

41. Violent attacks are underreported in Albania in part due to police abuse or discrimination. In the last years all LGBTI organizations in the country have reported an increasing number of LGBTI people (especially youth) asking for help to leave Albania and seek asylum in EU countries, US and Canada. This worrying trend reveals the continuous frustration of LGBTI people in Albania who have to leave the country mainly due to fear of violence and discrimination based on SOGI.

Hate Crime

42. In 2013, the Albanian Parliament amended the Penal Code³⁷ to specifically define crimes motivated by SOGI as hate crimes. The same year Parliament passed a new law prohibiting the dissemination of homophobic information, with a punishment of a fine and potential jail time. Albania has no official data collection on hate crimes. As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (hereinafter: ECRI) published a report on Albania in June 2015³⁸. ECRI requested that national authorities start gathering systematic data on attitudes towards LGBT people and the discrimination that they suffer. To combat hate crime, ECRI recommended that the police build stronger links with NGO's and the LGBT community. However, the number of reported hate-crime cases is very low and data collection on hate crimes is still lacking³⁹.

Hate speech

43. Despite positive changes in the Albanian society, homophobic and transphobic attitudes remain very high and a culture of hetero and cis-normativity and patriarchy is still pervasive. High ranking politicians have often made scandalous remarks against LGBTI persons. Following reactions and recommendations from CSOs, government officials and equality bodies however, cases of hate speech from high ranking officials in the country have been much rare.
44. Acceptance of LGBTI persons remain low, particularly in rural areas. Hate speech and discriminatory language continue to be a problem in the media, especially online media. Five cases of hate speech were registered and two complaints were submitted to the CPD on the grounds of SOGI. Awareness campaigns were organised across the country, but homophobia remains widespread⁴⁰.

Access to Education

45. In addition to the legal measures adopted to combat discrimination, Albania stated during the previous review⁴¹ that it had developed a plan for 2012-2014 to address discrimination on the grounds of SOGI. It included guidance and directions for educational institutions with a view to creating a safe environment in schools, in which there would be no intolerance or social exclusion

³⁷ Penal Code of the Republic of Albania, Law No. 7895, dated 27 January 1995, <http://www.qbz.gov.al/Kode-pdf/Kodi%20Penal-2014.pdf>

³⁸ Available here: <https://rm.coe.int/fifth-report-on-albania/16808b54ea>

³⁹ As indicated in the 2018 EU Enlargement Country Report for Albania: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-albania-report.pdf>

⁴⁰ As indicated in the 2018 EU Enlargement Country Report for Albania: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-albania-report.pdf>

⁴¹ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 20.

on the grounds of SOGI. Though there is an acknowledgement of the advances that Albania has made in the past years with regards to LGBTI issues, CSOs have been vital to fill the gaps that Albania has not implemented

46. Teachers and educators remain largely uninformed on LGBTI rights, despite efforts of the Ministry of Education and LGBTI organisations to train teachers⁴². In June 2018, PINK Embassy published the results of a survey among teachers on their attitudes towards LGBTI adolescents in schools. The study revealed that more than 60 percent of teachers in the Albanian public education system don't report to the authorities the cases of violence and discrimination against their LGBTI students when they become aware of it, while 70 percent of them stated that they would not support the LGBTI adolescents if they came out of the closet.
47. Based on National Democratic Institute (NDI) poll, with regards to discrimination and bullying, 33.6 percent of teachers said that discrimination occurs because of evidenced or supposed SOGI. Only 37 percent of teachers have reacted against such violence. Similar to the general population in the NDI poll,⁴³ 85 percent of teachers would not accept their child if they identified as LGBTI.
48. Even more difficult remains the situation of transgender people, who suffer in these intolerant school environments and they are forced to drop out of school because of isolation and discrimination. School psychologists are not trained on SOGI and are not able to provide professional support to LGBTI pupils. The lack of information amongst school professionals indicates extreme homophobia and ignorance on their part. The Local Education Authorities (LEA) have not developed anti-discrimination policies targeting homophobic and transphobic bullying and violence against LGBTI pupils. LEA staff are not informed or trained on the rights of LGBTI persons, and the school curriculum does not have any information on this group.

School Curriculum

49. During the previous review⁴⁴, Republic of Korea made a recommendation to Albania to strengthen its human rights education at the national level and through the school system.
50. Despite many efforts the school curricula has not improved. Children and young people continue to be deprived from adequate sex education programme.
51. *Reducing discrimination of LGBTI in Education by reviewing the curricula at all educational levels and training educational employees*⁴⁵ is stated in the NAP in the top 3 policy fields, within access to services. Up to date, no work has been done to improve the curricula of the education system with regards to LGBTI people, even though it is part of the 6 objectives of the Policy Fields of NAP: to reduce discrimination against LGBTI people within education by reviewing the curricula at all educational levels and providing training on LGBTI issues for teachers and other education professionals.⁴⁶

⁴² More info on education in Albania available in *the GALE European Report 2017 on the Implementation of the Right to Education for Students who are Disadvantaged because of their Expression of Sexual Preference or Gendered Identity* (p. 19-26): <https://www.gale.info/doc/gale-products/GALE-European-report-2017.pdf>

⁴³ National Democratic Institute (2015) *Public Opinion Poll on LGBTI issues: Western Balkans*, https://www.ndi.org/LGBTI_Balkans_poll

⁴⁴ Report of the Working Group on the Universal Periodic Review, A/HRC/27/4, paragraph 104.88.

⁴⁵ National Action Plan on LGBTI people in the Republic of Albania 2016-2020, march 2016 prepared by Government of Albania, Ministry of Social Welfare and youth, page 13

⁴⁶ The National Plan of Action on LGBTI Rights in Albania was commissioned by the Parliament Project-Resolution "On the Protection of LGBT Rights" approved by parliament on 07.5.2015, , https://www.parlament.al/wp-content/uploads/2016/01/projektligbt_22320_1.pdf

Violence, Bullying and Discrimination

52. Reports reveal that the use of homophobic slurs in addition to bullying against LGBT students is frequent in Albania. A PINK Embassy research into homophobic bullying in schools found out that almost 50% of all the cases of discrimination and bullying in schools are related to SOGI, yet more than 70% of all the complaints of LGBTI adolescents are not taken into consideration by school management⁴⁷. Schools are not considered safe for LGBTI adolescents as they don't provide any supporting services and the psychologists largely ignore the requests for support. In some cases, LGBTI adolescents have reported that schools' psychologists were even offering *conversion therapies*.
53. In September 2017, the National Child Helpline in Albania (ALO 116) introduced the National Helpline for LGBTI Adolescents⁴⁸ as a new free of charge national service. So far, this is the only service that LGBTI children and adolescents can access in relation to their protection from violence, bullying and discrimination. The Government of Albania hasn't funded any initiatives or services in relation to protection of children and young people from homophobic and transphobic bullying. In 2017, PINK Embassy and ALO 116 were asked to support the case of a trans child and the school authorities were positive and supportive towards the child. However, beyond this point, trans children and adolescents remain largely "unknown" in schools due to pressure to conform with assigned sex at birth.

Position of Trans Individuals

54. Despite advancements towards the respect for the LGBTI rights, trans people in Albania do not fully enjoy rights related to their gender identity. Though it is important that there are no laws that criminalize or pathologize gender identity and trans identities, there is no legal gender recognition in the country or other laws exclusively applicable to trans individuals. In its 2015 report⁴⁹ the ECRI called for the introduction of legal gender recognition measures. As for official policies relevant for trans individuals, there is NAP⁵⁰. However, very little has been done in relation to achieving respect for the trans rights.
55. Currently trans people do not enjoy the right to change their name or gender mark (identity) that is different from the gender assigned at birth. There are no specific services or clinics for trans people. There is no hormone therapy and no sex affirmation 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 accompanied by individuals or organizations. They are often refused provision of healthcare if they are alone⁵¹.

⁴⁷ A survey on the discrimination of adolescents on the grounds of sexual orientation and gender identity in public education system in Albania http://www.pinkembassy.al/sites/default/files/uploade/Diskriminimi%20per%20shkak%20te%20orientimit%20seksual%20ne%20sistemin%20arsimor%20parauniversitar%20ne%20Shqiperi_0.pdf

⁴⁸ <http://www.alo116.al/en/national-helpline-lgbti-adolescents-albania>

⁴⁹ Available here: <https://rm.coe.int/fifth-report-on-albania/16808b54ea>

⁵⁰ The National Plan of Action on LGBTI Rights in Albania was commissioned by the Parliament Project-Resolution "On the Protection of LGBT Rights" approved by parliament on 07.5.2015, , https://www.parlament.al/wp-content/uploads/2016/01/projektlgbt_22320_1.pdf

⁵¹ Based on PINK Embassy, Alliance and Pro LGBT annual internal reporting, and Joint-report on the implementation of the LGBTI Action Plan in Albania, Ministry of Health and Social Protection, 2018.

56. The new legislation covering free legal aid⁵² 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).
57. The legislation covering pre-university education⁵³ 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.
58. 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 Housing⁵⁴, trans people could benefit and enjoy same access to social housing as every other person in Albania, providing they fulfil the conditions and criteria.
59. The law criminalizes⁵⁵ sex work in Albania. Thus, sex workers 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 CSOs⁵⁶, they are constantly in life threatening situations.
60. There is no information on any trans person 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 gender assigned 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.
61. 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 Ime⁵⁷, a news platform launched by CSO Pro LGBT, has published an online magazine dedicated only to trans community⁵⁸. The website has continuously published personal stories of trans people that have been often republished by the mainstream media⁵⁹. There has been no documented violation in relation to freedom of peaceful assembly of trans persons. Aleanca LGBT have worked on awareness raising campaigns on trans issues through art residencies and performances⁶⁰ and different exhibitions such as TURP/TRUP.

⁵² *Law on Legal Aid*, Law No. 10039, date 22.12.2008, last amended by Law No. 77/2014, date 10.07.2014, Official Gazette, <http://www.tlas.org.al/sites/default/files/ligji%20per%20ndihmen%20juridike.pdf>

⁵³ *Law on Pre-University Education of the Republic of Albania*, Law No. 69/2012, last amended with Law No.56/2015, date 28.5.2015, Official Gazette, <http://www.arsimi.gov.al/files/userfiles/arkiva/dok-0029.pdf>

⁵⁴ *Law on Social Housing*, No. 22/2018 <http://www.qbz.gov.al/Botime/Akteindividuale/Janar%202018/Fletore%2079/LIGJ%20nr.%2022-2018,%20date%203.5.2018.pdf>

⁵⁵ *The Penal Code of the Republic of Albania*, Law No. 7895, dated 27 January 1995, last amended 2013, Official Gazette, <http://www.qbz.gov.al/Kode-pdf/Kodi%20Penal-2014.pdf>

⁵⁶ Based on PINK Embassy, Alliance and Pro LGBT annual internal reporting

⁵⁷ More about Historia Ime: <https://historiaime.albweb.al/>

⁵⁸ <http://historia-ime.com/2018/01/19/trans-magazine-revista-e-pare-dedikuar-komunitetit-transgjior/>

⁵⁹ Serving as a source not only to the public but also to the main media outlets.

⁶⁰ <https://si.se/en/projects-granted-funding/unstraight-alliance-art-residency-albania-sweden/>

Position of Intersex Individuals

62. According to 2017 Intersex Research study,⁶¹ legal provisions⁶² assert that the parents bear primary responsibility for the registration of their children, and in case this procedure fails, it falls to the state institutions to carry out this procedure. The law does not provide any time limits for registration of the name and gender of a newborn, but encourages early registration. Mothers who register their newborns within 60 days from the birth (births inside the territory of the Republic of Albania) or within 90 days (births from Albanian citizens outside Albania) receive a monetary reward⁶³.
63. A medical multidisciplinary team working with intersex babies and children does not exist. Few specialists participate in the process of medical treatment and verbally agree on which tests and analysis to conduct. Written protocols for establishing intersex diagnosis do not exist.
64. There are no provisions that specifically address the human rights of intersex people. Within LPD, sex characteristics are not listed as possible grounds of discrimination. The only current legal cases concerning intersex children are about changing the sex marker in documentation. State institutions and stakeholders still do not recognize intersex persons at any level in the system and there is a total lack of services for intersex people.

Prevention of HIV and AIDS

65. Albania has only one ambulatory outpatient clinic for treatment of HIV, and lack of antiretroviral medication throughout the year. This is constantly reported by the gay, trans and bisexual community to the LGBTI CSOs. Since all hospital procurements are now centralized within the Ministry of Health, during the beginning of the fiscal year, they often fail to procure in time many medications, including antiretroviral for people living with HIV. This is a dangerous situation because when a patient is not taking the medication for even a few days, the risk of their body becoming resistant to medication increases dramatically and it jeopardizes the entire effectiveness of the treatment.
66. In cases of HIV medication resistance, patients have only 4 basic regimens of treatment to choose⁶⁴. The LGBTI CSOs were made aware of a case of a gay nurse living with HIV who was asked to leave the job because of his HIV status, and a case of a gay dentist with HIV who had to undergo a surgery and his HIV status became known to the doctors. He was asked by the doctors to abandon the profession of a dentist. This shows the dramatic lack of knowledge even among the health practitioners, high level of stigma and multiple discrimination.
67. Access to prophylactic PrEP and/or PEP for pre or post exposure to HIV is difficult, as only a handful of private pharmacies are selling PrEP and PEP, often highly priced, making it impossible for the most vulnerable part of the LGBTI community to access it.

⁶¹ Intersex Research study 2017 in Albania, Bosnia and Herzegovina, Macedonia and Serbia: <http://www.lgbti-era.org/sites/default/files/pdfdocs/Intersex%20Research%20Study-ENG.pdf>

⁶² The registration of children in Albania is regulated through Law No. 10129, dated 11.05.2009, "On Civil Status", as amended.

⁶³ If parents register their baby within a time period of 30 days from birth, it is legislated that they are offered a bonus of up to US\$40 by the state.

⁶⁴ In comparison to several dozens already being used in other countries.

Freedom of Association and Peaceful Assembly

68. Albania held the first Pride in the capital on May 2014⁶⁵. Albanian LGBTI organisations have held public events quite successfully since May 2012 with the first ever “LGBTI Festival of Diversity” organised by PINK Embassy Albania⁶⁶. The Festival, Tirana LGBTI Pride and Tirana Gay (P)ride are now held regularly, with increased number of participants, but such events remain limited to the capital Tirana. There have been minor incidents, however protection and cooperation with police has been very positive. Awareness events have been attended by high-ranking government officials and supporters.

Cooperation with LGBTI CSOs

69. The position of CSOs, including LGBTI CSOs, is still very problematic. An empowered civil society is a crucial component of any democratic system and substantial efforts are needed from the state to ensure meaningful consultations with civil society actors as part of an inclusive policy dialogue. The financial sustainability of CSOs remains a challenge due to fiscal and legal frameworks⁶⁷.

List of Recommendations

- 71.1. Introduce sexual orientation, gender identity, gender expression and sex characteristics as grounds of discrimination in Article 18 of the Constitution of Albania within one year;
- 71.2. Ensure implementation of the LGBTI National Action Plan 2016-2020;
- 71.3. Ensure implementation of the Labour Code provisions dealing with SOGI;
- 71.4. Amend Family Law to provide legal recognition of same-sex partnerships within one year;
- 71.5. Strengthen the position of Commissioner for Protection from Discrimination and ensure that LGBTI persons are reporting cases of discrimination based on SOGI;
- 71.6. Improve the position of law enforcement to combat violence and hate crimes based on SOGI by building stronger links with CSOs and the LGBTI community, as well as by providing training programs about sexual orientation, gender identity and expression and sex characteristics to all members of law enforcement within next three years;
- 71.7. Ensure that legal provisions related to hate crimes are implemented and introduce official data gathering of hate crimes within one year;
- 71.8. Introduce measures to combat hate speech based on SOGI within one year and ensure adequate, positive and non-discriminatory treatment of LGBTI individuals in media, online and public sphere;
- 71.9. Ensure that LGBTI individuals are protected from bullying, discrimination and inaccessibility within educational system by reviewing school curricula and introducing training programs about sexual orientation, gender identity and expression and sex characteristics in all educational institutions within next three years;
- 71.10. In line with international standards, adopt legal provisions that will allow legal gender recognition to trans individuals in the country and change of their identity that is different from the gender assigned at birth within one year;
- 71.11. Within two years, introduce legal provisions and awareness-raising campaigns that would increase the visibility of intersex persons and ensure their adequate protection and well-being,

⁶⁵ <http://www.pinkembassy.al/en/1st-ever-lgbt-pride-held-albania>

⁶⁶ <http://www.pinkembassy.al/en/about-pink>

⁶⁷ As indicated in the 2018 EU Enlargement Country Report for Albania: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-albania-report.pdf>

including protection from discrimination based on sex characteristics, protection for their physical integrity and amending the Law on Civil Registration to introduce and differentiate between the concepts of sex and gender;

- 71.12. Ensure that LGBTI individuals are protected from discrimination in access to healthcare by introducing trainings on LGBTI rights to all medical staff and awareness-raising campaign on equal access to healthcare within three years;
- 71.13. Provide adequate and accessible therapy for all individuals living with and/or in risk of HIV and AIDS within one year;
- 71.14. Ensure adequate and equal access to public services and public spaces to LGBTI individuals;
- 71.15. Strengthen the position of LGBTI CSOs and ensure meaningful consultations with civil society actors as part of an inclusive policy dialogue

ANNEX

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