

BRING OUT THE DATA, NOT EMPTY DRUMS AND TRUMPETS

Discriminatory incidents and crimes motivated by
homophobia and transphobia in the Republic of Serbia
from January to November 2017

Miloš Kovačević





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INTRODUCTION



This report represents the result of monitoring and documenting incidents and crimes motivated by homophobia and transphobia (hereinafter hate crime) in the period from January 1st through October 31st 2017 by the Association *Da se zna!*. Throughout this period it was documented: 20 crimes motivated by homophobia or transphobia, 2 cases of discrimination based on sexual orientation and gender identity and 5 cases of hate speech towards LGBTTIQA community. Out of 5 cases of hate speech, 3 were recorded as acts and 2 as events. Out of 11 cases of threatening behavior and psychological violence, 9 were recorded as acts and 2 as events. All cases of extreme physical violence, assault and damage of property were recorded as acts.

When reading this report and using its data stated in it, it is important to have in mind a couple of things. Firstly, data on hate crimes and incidents motivated by prejudices against LGBTTIQA happened in the period from January to October 2017. The association *Da se zna!* from its establishment continuously records hate crimes and prejudice motivated incidents against LGBTTIQA and until now we have recorded more than 80 hate crimes, discriminatory incidents and cases of hate speech. On the basis of experience of recording from 2016 and 2017, association *Da se zna!* has recognized that a large number of incidents are recorded months, even years after an incident occurred. Because of this, this report should be taken as an overview of recorded hate crimes and incidents whose number, due to the dynamics of the process of recording, will undeniably be larger and it cannot be taken as a final number of cases that occurred in the above mentioned period.

Secondly, in this report we have not recorded discriminatory incidents and hate speech that targeted LGBTTIQA community as a whole. The association *Da se zna!* has recorded two of those discriminatory incidents and over 30 hate speech cases of those kinds. As a result of *Da se zna!*'s reaction concerning these cases, the Commissioner for the Protection of Equality has

filed an offense charge against two natural persons and one legal person and started a civil procedure based on discrimination by one natural person.

At the beginning of the process of monitoring incidents and crimes motivated by homophobia and transphobia we have adjusted the online questionnaire for victims and witnesses of hate crime at the portal of association *Da se zna!* in order for it to synchronize with ILGA Europe's data-classification standards. On its Facebook page, *Da se zna!* has implemented a campaign on the possibility and process of reporting hate crimes through the portal. Concerning media with national coverage, portal was presented through an article in daily newspapers *Danas*, a report in Radio Television of Serbia's Daily News and through an interview with TV N1. Through every media appearance, activists of *Da se zna!* informed the public on online questionnaire and possibilities for reporting hate crimes. Association *Da se zna!* has organized the presentation of online questionnaire in 4 cities for 12 civil society organizations. Aside from online reporting, hate crime could also be reported to *Da se zna!* through the e-mail: dasezna@dasezna.lgbt.

After hate crime has been reported through portal or e-mail, activists of *Da se zna!*, whenever possible, tried to contact victims and/or witnesses of hate crimes and offer face-to-face or telephone interviews in order to get more detailed information, clarify possible ambiguities, collect evidence and offer psychological and legal support to victims of hate crimes. In the cases when data on hate crime or discrimination incident was gathered through media monitoring, in collaboration with associate LGBTTIQA organizations and individuals from LGBTTIQA community, *Da se zna!* would right away contact the victim and propose to record the crime. Collected data turned out to be crucial for the work that *Da se zna!* is doing – empowering LGBTTIQA persons to report hate crimes and establishing trust between LGBTTIQA persons and institutions. Moreover, the results of *Da se zna!* represent the example of good

practice and a chance for building capacities of other LGBTTIQA organizations and human rights organizations that are interested in hate crime monitoring.

The present report is a follow-up of **Step up reporting on homophobic and transphobic violence**, a project supported by ILGA-Europe, the European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association. The objective of the project was to empower European LGBTI civil society organizations to more consistently monitor and report homophobic and transphobic hate crimes and incidents.

After Introduction the Key findings are presented. Third chapter is split into two parts. In the first we presented the legal frame and situation in Serbia concerning hate crime and LGBTTIQA rights. In the second descriptions of recorded hate crimes and connected incidents are presented. In the fourth paragraph the reactions of the police and responsible authorities are presented. At the end of the report you can find the classification of hate crimes and connected incidents, as well as bias indicators provided by ILGA Europe in order for uniformity of data, which enables comparisons and understanding outside of national context. All of the terms “hate crimes”, “hate crimes and connected incidents”, “incidents” and “cases” in this report refer to crimes and incidents motivated by homophobia and transphobia.

To prepare this work, ILGA-Europe developed a harmonized data collection methodology in 2012. The methodology builds on international standards and on the expertise gained in different past activities, such as the elaboration of European-wide submissions to the OSCE’s Office for Democratic Institutions and Human Rights (ODIHR) in view of its Annual Report on Hate Crime, or ILGA-Europe’s participation in the **Facing Facts! Making hate crime visible project**.

Step up reporting on homophobic and transphobic violence was launched in 2013. In 2013, a first call for proposals within the ILGA-Europe’s Documentation and Advocacy Fund was launched, supporting 12 member organizations in Europe to do hate crime reporting. In 2017 the Fund, with the support of the Government of the Netherlands, provided dedicated resources to 6 national and local NGOs in Armenia, Bulgaria, Poland, and Serbia. These NGOs were trained on the methodology previously developed by ILGA-Europe, and committed to apply it in order to produce comparable data.

Data collection and publication is expected to be developed on a more sustainable and professional basis in the future, thanks to the capacity-building aspect of the current project. Through this initiative, ILGA-Europe’s methodology is being made available to a greater number of European LGBTI civil society organizations. Reliable reporting continues to be

an essential tool for convincing authorities of the need to criminalize hate crimes and to develop policies and trainings for police and judicial bodies to deal with hate crimes effectively. In order to make sure that cases of hate crimes and discrimination are being reported, it was necessary to introduce LGBTTIQA community with *Da se zna!*’s online questionnaire and possibilities for reporting incidents.

Although the most active LGBTTIQA organization in Serbia on the Internet, activities of *Da se zna!* are based on direct work with LGBTTIQA persons on local and national level. Association *Da se zna!* established collaboration with individuals and organizations that have experience in recording of incidents. Moreover, with the goal of building capacities for monitoring of hate crime on the local level, association *Da se zna!* has established a network of 12 partner organizations in 5 Serbian cities.

KEY FINDINGS

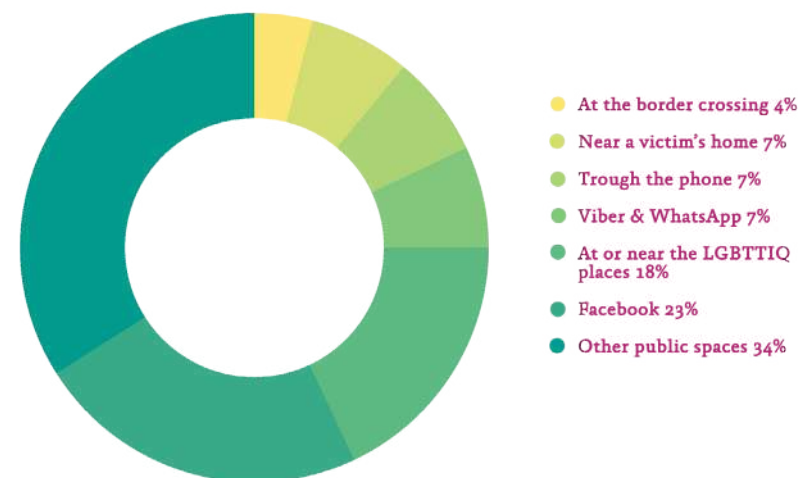
The social media campaign that aimed to promote the portal *Da se zna!* and possibilities for online reporting of hate crimes, began in October 2015 and had a goal of raising awareness on homophobic and transphobic violence and discrimination, as well as offering LGBTTIQA community an opportunity to report hate crimes in a safe environment and without a fear of second victimization. Period of recording that is covered with this report started on 1st of March and ended on 31st of October 2017.

Out of 27 recorded cases of hate crimes and incidents, 24 cases were directly reported by persons who experienced hate crime, none by witnesses and three by other LGBTTIQA organization. In Belgrade, the capital of Serbia, 18 cases of hate crimes and incidents were recorded. In Novi Sad one case was recorded. In Niš, the biggest city in Serbia after Belgrade, 2 cases of hate crime were recorded. In Subotica 4 cases, and in Požarevac 1 case was recorded. One case of hate crime happened near Prijepolje. Zero cases of hate crimes or incidents were recorded in rural areas.



Graph 1: Locations where cases of hate crimes and incidents occurred

Concerning places where cases of hate crimes and incidents occurred, the most of them were recorded under category „other public spaces“ (33%). Under that category we have recorded cases of hate crimes and connected incidents that happened on streets, at pizzeria, copy shop, in public transport and special vehicle for voluntary blood donation. The second biggest number of cases happened on the internet (30%). The cases that were recorded on the Internet mostly occurred on social network Facebook, but there are also some that happened through Viber and WhatsApp. At or around the places of meeting of LGBTTIQA community 18% of incidents occurred. Near the homes of persons who were the victims of violence, 7% of cases were recorded. On border crossings 4% of incidents happened. Under category „other“ 7% of incidents are recorded – threats through phone towards a gay cisgender man and towards a cisgender lesbian.

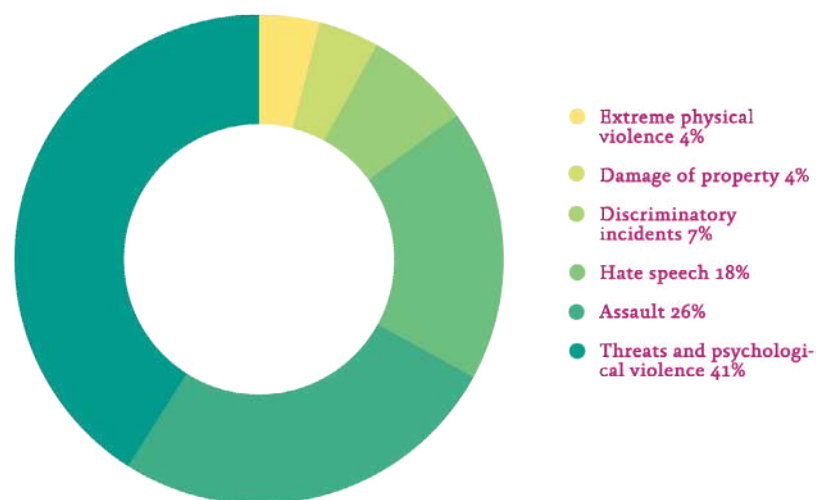


Graph 2: Places where cases of hate crimes and incidents happened

For each cases types of violence were recorded, which, according to the report of a victim, were included in a specific incident. In most cases, incidents involved more than one type of violence (for example, physical violence is almost always followed by insults). Then, incidents were categorized by investigators according to a dominant type of violence in one of the predefined categories.

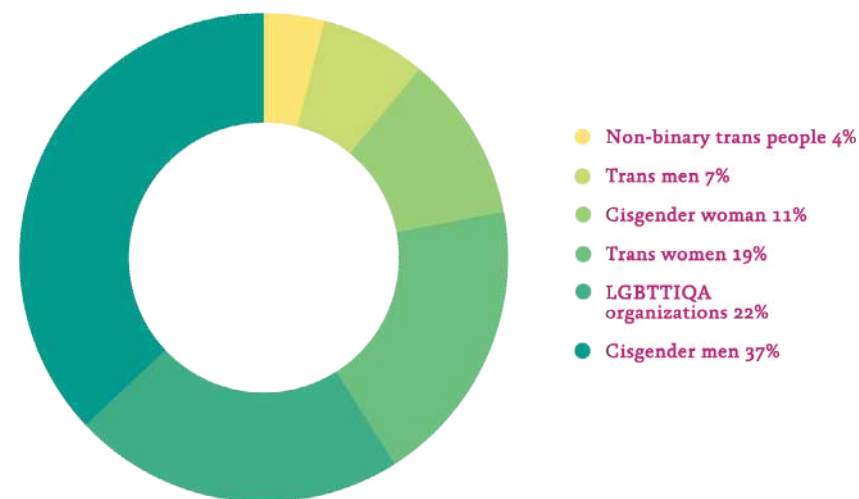
Out of all incidents 63% involved insults and psychological violence, 41% threats of physical violence, 30% physical violence, 11% stalking, 7% damage or marking the property. Denying access to public healthcare and commercial services (taxi rides) happened in 4% of cases.

Out of recorded cases of hate crimes none was under categories homicide or arson. One case was categorized as extreme physical violence. Seven cases are categorized as assault, one as damage of property and 11 as threats and psychological violence. Out of recorded connected incidents, two are categorized as discriminatory incidents and five as abusive behavior. All five cases of abusive behavior are recorded in subcategory hate speech.



Graph 3: Categorization of cases of hate crimes and incidents

More than a third of persons who experienced violence are cisgender men (37%). After them, the biggest number of individuals identify as trans women (19%). Cisgender women make up 11% of individuals, while trans men represent 7%. The least number of cases of hate crimes and incidents recorded happened to non-binary trans individuals (4%), while none of the cases recorded happened to an intersex person. In the case of 22% incidents it was not possible to determine the gender identity, as the targets of those attacks were LGBTTIQA organizations.



Graph 4: Gender identity of victims

The majority of individuals identifies as gay (26%), while 11% of persons identify as lesbian, heterosexual or asexual. All heterosexual individuals were also trans, so none of the cases of hate crimes and incidents happened to a cisgender heterosexual person because of assumed homosexual orientation. Aside from that, every case recorded as committed against asexual people happened to one asexual person on the basis of assumed homosexual orientation. There are 4% of victims who identify as queer. In the case of 22% of incidents it was not possible to assign sexual orientation as the target of attacks were LGBTTIQA organizations. In 15% of recorded incidents sexual orientation of the victim is unknown. In every case in which sexual orientation is unknown, the victims were trans women that we could not get in touch with.

Out of all cases, in 19 of them the age of victim of hate crime and/or incident was available as information. On the basis of these cases, it was concluded that the youngest person was 21, the oldest 48, while the average age is 35. In two cases there are no precise information on the age of victim, while in 6 cases of hate crimes and incidents the targets were LGBTTIQA

organizations.

Besides this, it is important to point out the consequences for the scope of this report that result from Da se zna!'s strategic orientation towards youth and the nature of promotion of Da se zna!'s activities that happen mainly on social media and in big cities. Although the activities of Da se zna! had a wide coverage in traditional media too, it is possible that the reach was not sufficient enough to empower older LGBTTIQA people and LGBTTIQA people from rural areas to report violence and discrimination. That can be one of the reasons for the low average of victims' age and invisibility of victims from rural areas.

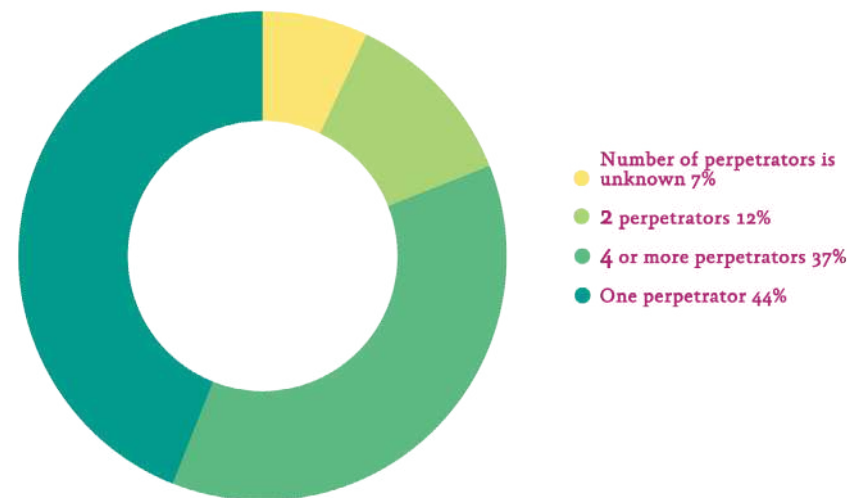
Out of all recorded cases in which the victims were people, 43% individuals was out to everyone, 48% was out at workplace, 57% was out to friends, while for 38% of victims this data is unknown. In certain extent 58% of individuals were included in LGBTTIQA community. We regarded inclusion in LGBTTIQA community on the basis of questions if the person went at least once to Pride Parade or some other LGBTTIQA event. On the other hand, 23% individuals were not at all included into LGBTTIQA community, while for 19% of individuals this data is unknown.

Out of all recorded hate crimes and incidents in 44% the perpetrator was an individual. In 12% of cases two people committed the crime. None of the incidents were committed by three individuals, while in 37% of incidents the number of perpetrators was 4 or more than 4 (a group). In 7% of cases the number of perpetrators is unknown. In 67% of cases perpetrator was a natural person, in 4% of cases it was a professional in the position of power in relation to the victim, but not public servant, while in one case (4%) perpetrator was policeman, in other words public servant. In only one case (4%) perpetrators of hate crime were women, while in all other cases perpetrators were men. In 25% of cases relevant information about perpetrator(s) are unknown.

In 70% of cases sexual orientation was recognized as a motive of perpetrators, while in 56% the motive was gender identity. Gender expression was a motive of a crime in 12% of cases, while in one case (4%) victim did not know what was the motive.

In 81% of cases it was recognized that the membership or perceived membership in a social group was the motive, because perpetrator(s) knew that a victim is a LGBTTIQA person from before the incident. In 74% of cases it was recognized that individual characteristic of a victim (membership or perceived membership in LGBTTIQA) was a motive behind the incident because of the language and words that perpetrator(s) used. In 44% of cases indicator of perpetrator's prejudice was the place where the incident had been committed. Previous

threats and incidents were basis for assuming that perpetrator(s)'s motive was the individual characteristic of a victim in 15% of cases. At the crime scene, perpetrator left signs that indicated what was the motive behind the incident in 12% of cases. During interview, the person who said they do not know what was the motive behind the incident repeated their answer.



Graph 5: Number of perpetrators of hate crimes and incidents

Earlier research done in Serbia shows a general tendency not to report crimes motivated by homophobia and transphobia as well as poor documenting of these cases. This report has the goal of contributing to the effort to create a more realistic view of the position of LGBTTIQA people in Serbia regarding their safety, as well as a more comprehensive insight into the actions taken by responsible institutions. The police and prosecution have a big role in the realization and respect of LGBTTIQA human rights, which makes the adequate and timely reaction by police and prosecution the crucial factor of the general feeling of safety among the members of the LGBTTIQA population. Having in mind that data shows that reform of the sector of safety did not improve the position of LGBTTIQA population significantly, the goal is to increase visibility of hate crimes against LGBTTIQA individuals. The goal is to increase the trust the LGBTTIQA community has for responsible institutions as well as increase the cooperation between the responsible institutions and civil society organizations, finally improving their safety.

The government of the Republic of Serbia must be unequivocal and unapologetic when fighting homophobia and transphobia in Serbia. Thus, it is very important to form a strategy to improve the lives of LGBTTTIQA people in Serbia, which would in no small part focus on the safety of LGBTTTIQA people. Such a strategy would represent the first step toward a comprehensive response in fighting violence and discrimination against LGBTTTIQA people in Serbia.

Responsible institutions need to act according to Article 54a of the Criminal Code that defines hate crimes. The application of this article of the Criminal Code would help to understand the motives behind crimes inspired by homophobia and transphobia as well as create faster and more efficient solutions and processing for crimes motivated by homophobia and transphobia.

The system of documenting cases inside the Ministry of Internal Affairs should be improved in such way that there is a central database in which data could be sorted by different criteria and followed as such afterwards. Documenting cases of crimes based on hate and prejudice against the LGBTTTIQA population should be different and separated from documenting other crimes not motivated by hate. A system is needed in which data on crimes motivated by homophobia and transphobia would be collected by documenting perceived sexual orientation as a crime motivation rather than the real sexual orientation of the victims.



BIAS MOTIVATED VIOLENCE AGAINST LGBTTTIQA

THE LEGAL SITUATION OF HOMOPHOBIC AND TRANSPHOBIC HATE CRIME

Serbia introduced legal framework that was supposed to guarantee the safety of LGBTTTIQA people, but that framework has not been fully implemented in practice. Although the status of LGBTTTIQA people significantly improved since 2000, especially after the Anti-discrimination law was passed in 2009, the safety of LGBTTTIQA people is still on low level. Pride parade represents an improvement as it shows the political will for the improvement of LGBTTTIQA people's status, however, the parade by itself is insufficient. Attacks on LGBTTTIQA are visible, but their exact number is not known, therefore it cannot be concluded that they occur more frequently than before. Prejudices towards LGBTTTIQA population are widely present, and as a reference for that claim there are research findings, which show that 80% of total Serbia's population would not want a LGBTTTIQA person for their neighbor, while one fifth claims to know and communicates with a LGBTTTIQA person. Total of 26% of respondents believes that they would stop communicating with a person from their closer circle if they found out that that person has different sexual orientation. In this research, 23% of LGBTTTIQA respondents said that they have experienced physical violence.¹

Crimes committed on the basis of hate or prejudices towards people of different sexual orientation or gender identity require special attention of police and prosecution. Crimes motivated by homophobia and transphobia should be approached much more seriously compared to other social acts, because they are committed with a motive of discrimination, and their results can be tragic. Moreover, those acts are usually

1 National Democratic Institute (NDI) et al. (2015), LGBT Public Opinion Poll Western Balkans (June/July 2015), <http://www.slideshare.net/NDIdemocracy/ndi-public-opinion-pollin-the-balkans-on-lgbti-communities>, 10. 11. 2016.

ASSAULTS

Association *Da se zna!* has recorded seven cases of physical assault whose intensities vary from prevented attempt of assault on *Da se zna!*'s activist during Pride week, to the attack on a trans woman who lost consciousness because of the force of the punches. Unlike the case described in the section 3.2.2., these cases were not recorded as extreme physical violence because the attack on the victim was not rated as life-threatening. The assessment was guided by the criteria set out in the Annex: Glossary, and it was especially taken into account whether an attack involved an object that could inflict a serious injury to a victim. While in the attack described in the section 3.2.2. concrete blocks were used, victims where attacks are under the category of "assault" were either not attacked by any objects or were attacked by objects such as cans and paper flags. Only in the case of one attack under the category of "assault", a stone was thrown at the victim, but missed the victim, which is why this case is also included in this section. Two assaults have happened on the street and near the home of 39-year-old cisgender asexual man from Subotica. Other five assaults happened in Belgrade. Other victims are cisgender gay man in three cases and in two cases trans women. Two assaults happened on the street, one near the home of a victim, one in a copy shop, one in pizzeria, and two assaults happened during Pride Parade in September. The number of perpetrators of the attacks was one in three cases, in two cases it was two and in two cases the number was four. All of the assaults were committed by individuals who were not familiar to the victims, and in one case perpetrators were minors. Language and words used during the attack, place of the attack, knowledge of person's homosexuality or trans identity and previous incidents were recognized as bias indicators of perpetrators.

DAMAGE OF PROPERTY

Association *Da se zna!* has recorded one case of damaging of property motivated by homophobia and transphobia. During Niš Pride Parade, on the 28th of June, representatives of seven "Local networks for the prevention of discrimination and support for the LGBT people in Serbia", as a part of the conference "Collaboration for the improvement of status of the LGBT people in Serbia", have continued planting trees at the Park of tolerance at Niš fortress. Representatives of Niš's local network, had planted the first trees in this park on the 17th of May - the International day against homophobia, transphobia and lesbophobia. Aside from additional trees, on the 28th of June the information plaque on Park of tolerance was also set up. On Sunday, 2nd

of July, during sports day of the Pride week at Niš fortress, activists of the center for the improvement of LGBT+ rights *Kolektiv* saw that the park was destroyed, i.e. trees were ripped out while informative plaque was removed.

ARSON

During recording of hate crime in the period stated in the Introduction of the report, association *Da se zna!* did not record any case of arson motivated by someone's sexual orientation or gender identity.

THREATS AND PSYCHOLOGICAL VIOLENCE

The association *Da se zna!* has recorded 11 cases of threats and psychological violence. In two cases victim was the association *Da se zna!*, once after the campaign „I vote for diversity“, and second time during the campaign for Pride Parade. In both cases threats were made by different individuals throughout a longer period of time on Facebook, both of these cases were recorded as events. All other cases of threats and psychological violence were directly reported to *Da se zna!* by people who experienced threats and psychological violence. In two cases persons who experienced threats and psychological violence the victims were cisgender gay men, in one case it was a queer cisgender man and in one asexual cisgender man. In two cases persons who experienced threats and psychological violence were lesbians, in two cases the same straight trans man, and in one trans woman whose sexual orientation is not known. One case happened in Novi Sad, one in Požarevac, one in Subotica, one at the border crossing near Prijepolje, and other cases happened in Belgrade. In one case threat and psychological violence happened near the place where victim lives, and in one case in front of Pride Info Centre during September Pride week. In two cases perpetrators threatened through applications Viber and WhatsApp, and in three cases (including those in which the victim was association *Da se zna!*) the victims experienced threats through Facebook. In two cases victims were threatened through telephone. The same 29-year-old trans man suffered psychological violence at the border crossing near Prijepolje, where the police officer on purpose misgendered him, and after a few days a bus driver in Belgrade did the same thing. In six cases the number of perpetrators was one, in one cases there were two perpetrators, in three cases there were six or more perpetrators, and in one case a victim was not aware of the number of perpetrators. All perpetrators were ordinary citizens, except in that

one case where a police officer was the perpetrator. In one case one of the perpetrators was the victim's former partner and in one case one of the perpetrators was the mother of the victim's partner. In four cases it is known that perpetrators were above 18, while in other cases age of perpetrators is unknown. In eight cases victims said that language or words used by perpetrators were a reason for believing that threats and psychological violence are motivated by homophobia and transphobia. In eight cases one of the reasons for believing that threats and psychological violence were motivated by homophobia and transphobia was the fact that perpetrators knew from before that the victim was LGBTTIQA person. The place of incident was recognized as a reason for believing that threats and psychological violence were motivated by homophobia and transphobia in four cases, while a sign which perpetrator left at the place where the incident occurred was recognized as a reason in one case.

OTHER INCIDENTS MOTIVATED BY PREJUDICE

Out of other prejudice motivated incidents that were not hate crimes, *Da se zna!* has recorded 4 discriminatory incidents and over 30 cases of hate speech in the period stated in the introduction of the report. However, in the report we have included only two discriminatory incidents and five cases of hate speech because they targeted an individual or an entity (a person or an organization), while other incidents and cases of hate speech targeted LGBTTIQA community as a whole.

Discriminatory incidents

Out of two cases of discriminatory incidents that are included in the report, one was already described in the part 3.2.1. because of its connectedness with the extreme physical violence that victim suffered. The victim of other discrimination incident was a 26-year-old gay man from Belgrade who tried to donate blood. Together with friends he was passing by the shopping center Stari Merkator in New Belgrade where a bus of the Institute of Blood Transfusion was parked⁴ and he decided to donate blood. When donating blood the official process involves a questionnaire comprised

4 Special buses of the Institute of Blood Transfusion are at times located at popular locations and they offer a possibility to potential donors to donate blood at the spot.

of around 20 questions for blood donors . On the basis of answers given by donors⁵, a doctor should decide if necessary conditions for safe donation are met. The questionnaire for blood donors contains a problematic question:

„Did you have anal sexual relations in the last 6 months?“

The fact is that heterosexual people also have anal sex. However, association *Da se zna!* thinks that this question opens a possibility for indirect discrimination against gays and bisexuals, but not for heterosexuals that have anal sex, because of the historical background of the problematic question⁶. The victim honestly answered this question and gave the filled in questionnaire to the doctor. She read it, and afterwards asked the victim to explain the positive answer to the problematic question, while the victim replied that he is gay. The doctor, who until then talked with this young man in a respectful manner, changed her face expression and attitude. According to the victim's words, she looked afraid and hostile. Then, she refused him as a donor with a sentence:

„You and your people belong to a high-risk group.“

5 The questionnaire can be found at the website of the Institute of Blood Transfusion (link: <http://www.nbti.org.rs/Institut-za-transfuziju-krvi-Srbije/126/Upitnik-za-davaoce.shtml>)

6 A forerunner of this problematic question was a discriminating question that excluded all heterosexuals and targeted all homosexual people: "Have you ever had sex with a person of same sex?" In April 2006 Labris implemented a campaign against this questionnaire for blood donors. This kind of formulation of a question is discriminating as it puts homosexual people in a higher risk group. Having in mind that homosexuality is depathologized and decriminalized, there are no high-risk groups, but individuals who have risky sexual encounters, which are not caused by sexual orientation. European Agency for Reconstruction was notified about the problematic part of the questionnaire, and a request for removal of this question was sent to the Institute of Blood Transfusion. Activists of Labris have later on conducted an activity during which they have tried to donate blood and they were all one by one refused. Afterwards there was another incident which represents a pathologization of sexual minorities – one Labris' activist tried to donate blood for a family member who went through a surgery, but she was refused because the Institute for Blood Transfusion put her in computer records as a person who has sexual relations with persons of same sex, and was therefore forbidden to donate blood until further notice. This represents discrimination as she had a non-reactive result during HIV test and there are no scientific, i.e. health reasons for treating LGBT people differently in the process of blood donation. In November 2006 the activity of changing discriminative questionnaire for blood donors was completed with positive results and in a new questionnaire that started being distributed during next year, openly discriminative question was replaced with the above mentioned problematic question – still leaving room for discrimination of gays and bisexuals.

The change of attitude towards the young men as soon as he outed himself, but also an explicit mentioning of “his people” that belong to “a high-risk group”, implies that this doctor has prejudices towards members of LGBTTIQA community and that she connects homosexual orientation with STIs. The young man felt humiliated. Nurses who were present during the incident have seemed surprised and they looked like they wanted to say, “What are you talking about?” to the doctor, however in the end no one reacted, and the victim’s reaction at the moment was to withdraw. This is not the only case when victims noticed that medical personnel non-verbally showed their condemnation of their colleagues’ discriminative words or practices. However, medical personnel did not openly oppose a person who was being discriminating towards someone in any of the cases familiar to the association *Da se zna!*

Victim: „I asked for my ID and left. I only wanted to leave that place. I was shocked by her lack of knowledge and rudeness.“

Hate speech

Out of five cases of hate speech that were included in this report, in three of the cases hate speech targeted organizations, one targeted cisgender lesbian from Subotica and one case was about cisgender gay man from Belgrade. Out of three cases which targeted organizations, association *Da se zna!* was the victim in two of them. Both of these cases were recorded as events, because of the large number of comments and messages that *Da se zna!* continuously received during a longer period of time. One case involves hate speech by numerous perpetrators that occurred through Facebook during the campaign “I Vote for Diversity”. The third recorded case of hate speech that targeted organizations is a hate speech of clero-fascist organizations *Obraz* and *Srpski sabor Zavetnici* that targeted association *Ženski prostor* that organized Niš Pride week. In this cases, except in those in which the victim was *Da se zna!*, hate speech was reported by the victim. In three out of five cases of hate speech, hate speech occurred through Facebook, while in other two cases it occurred close to the places of gathering of LGBTTIQA people. Only in one case the number of perpetrators is one. In all other cases the number of perpetrators is larger than four. In all cases perpetrators are not familiar to the victims, except in one case where perpetrators

were members of clero-fascist organizations *Obraz* and *Srpski sabor Zavetnici*. In two cases perpetrators were not minors, while in other cases the age of perpetrators is unknown. In all of the five cases language and words used by perpetrators are reasons for victims’ belief that these were hate speeches against LGBTTIQA people. In all of the cases perpetrators knew from before that the victim is a LGBTTIQA person and in all cases the place of incident (even if it was committed through Facebook) indicates that perpetrators were motivated by prejudice. In two cases perpetrators left a sign at the place of incident, and in one case perpetrators are familiar because of previous threats and incidents. Based on their homophobia, the activities of the organization *Obraz* were forbidden by the Constitutional Court of Serbia in 2012.



POLICE AND OTHER LAW ENFORCEMENT AUTHORITIES

Majority of victims (67%) said that they have reported a hate crime or incident they experienced to the police and/or prosecutor's office, 29% did not report it to police and/or prosecutor's office, while in one case (4%) this information is unknown. Treatment of victims by the police and/or prosecutors was rated as dismissive in half of all cases. In 11% of cases it was rated as supportive, mocking and offensive, while in 17% of recorded cases that were reported to police the treatment of victims by police and/or prosecutor's is unknown. None of the victims rated police and/or prosecutor's office treatment as neutral or violent. The police did not treat any of the recorded cases as a hate crime.

One case was reported to the Commissioner for the Protection of Equality. All of the cases are reported to either *Da se zna!* or other LGBTTIQA organization which shared its information on the cases with *Da se zna!*, except those in which association *Da se zna!* was the victim of threats, psychological violence and hate speech.

The victim of the extreme physical violence called the police number and was given the number of the Savski Venac's police department that she could not reach. Luckily, a person who offered help came across, and succeeded to get a taxi and drive the victim home. In this case police did not act professionally. After she took a shower and changed her clothes, the victim went to the Savski Venac's police department to report the attack, where the officer on duty asked her: „Why do you need to dress like that?”. The record of the attack was made, and afterwards the attacked trans woman went to the emergency room in order for injuries to be determined. After getting necessary medical aid, the victim returned to the police station and when she had requested for perpetrators to be brought to justice, the officer on duty replied: „It is holiday season and during it we will not work on the case. Kennedy was also murdered and it is still unknown who did it.”

All recorded assaults were reported to the police and/or prosecutor's office, except one case of the assault on a gay man who participated in Pride Parade. A reason be-

hind not reporting this case was that the victim was attacked in front of the police and they did not react. All assaults, except one, were reported to *Da se zna!* by victims. One case of assault on a trans woman *Da se zna!* recorded through collaboration with other LGBTTIQA organization. That case was also reported to the Commissioner for the Protection of Equality. The case of extreme physical violence and two cases of assault on trans women were, in comparison to other assaults, given certain attention in media. The possible reason for that is the intensity of violence that these two women have suffered, but also that the cases happened in the period of just a couple of days. The Commissioner for the Protection of Equality reacted⁷ in the cases of these attacks and invited responsible authorities to find and punish the perpetrators.

On Monday, the 3rd of July, activists of the *Women's Space*, organization that was implementing Niš Pride week, reported damage of property to the police and the case is still ongoing. Besides crime report, JKP *Medijana*, that is in charge of park and its trees, and *Labris – lesbian human rights organization*, under whose project “Local networks for the prevention of discrimination and support for the LGBT people in Serbia” came to existence and the owner of the stolen plaque, also submitted requests for compensation. Organizers of Niš Pride week invited responsible authorities to find perpetrators as soon as possible and adequately punish them.

Seven cases of threats and psychological violence were reported to police and/or prosecutor's office, while three cases were not, and in one case police did not react even though they were present during the incident. In one case that was reported to the police, information about the reaction of public servants was not known. In almost all other cases of threats and psychological violence the reaction of the police officers and/or prosecutor's office was unprofessional. Although one person rated police's reaction as supportive, their impression was based only on police officer's politeness and from our interview with the victim it was concluded that the victim had problems concerning getting a copy of the Official police note on the case. The only case where police acted professionally was the case of threats that the victim reported together with activists of *Da se zna!* However, that case is more an exemption than a rule, as association *Da se zna!* did not encounter satisfying reaction of the police and prosecution when reporting threats to the association, nor when reporting threats that were reported by the victims themselves or victims together with activists of *Da se zna!* Although the association *Da se zna!* reported threats, which occurred during the campaign “I Vote for Diversity” and campaign before Pride Parade, to the

7 <http://ravnopravnost.gov.rs/en/warning-regarding-attacks-against-transgender-persons/>

Special Prosecutor's Office for High-Tech Crime, the association either did not get an answer or the crime reports were rejected. The investigation was started just in case of one perpetrator, and association *Da se zna!* reported 13 cases to the Special Prosecutor's Office for High-Tech Crime.

Concerning the case of discrimination described in the chapter *Discriminatory incidents*, the reasons for not reporting this case to the police by the victim were numerous. One of the reasons he mentioned was the habit of tolerating homophobia that he developed because of homophobic violence and bullying he experienced in school, but also because he experienced negative comments about LGBTTIQA community at his workplace and in public sphere. The second reason is not seeing discrimination during blood donation process as something serious enough in order to be reported. However, he acknowledged that he would report the discrimination if he was to be denied medical aid.

In two cases hate speech was reported to the police or prosecution, while in others it was not. Association *Da se zna!* has reported hate speech after the campaign "I Vote for Diversity" to the Special Prosecutor's Office for High-Tech Crimes, but we have not received an answer. On the basis of this experience, but also because of the refusal of other crime reports that we have submitted in cases of hate speech that occurred in media, which did not targeted an individual or an organization, but rather the LGBTTIQA as a whole, we have not reported the hate speech during a campaign for the Pride Parade. Although the Article 387 of the Criminal Code of the Republic of Serbia, which speaks on racial and other forms of discrimination, explicitly forbids hate speech, the Special Prosecutor's Office for High-Tech Crime does not process hate speeches that do not involve direct threats. In other case of hate speech that was reported to the police, police has interviewed perpetrators for an hour, in a backyard of a nearby building, and then arrested only two of four perpetrators. A police officer, when asked by the victim what will happen to perpetrators, answered that it is not something he should be worrying about and that they can arrest him because of an obstruction of law enforcement officer in the lawful discharge of his official duties.

The biggest problem is that victims are not motivated to report hate crimes if they do not recognize that an organization to which they are reporting an incident can offer them sufficient legal and/or psychological support. Because of that, the association *Da se zna!* has, during the implementation of the project, formed a legal team that has until now, aside from offering legal advices to victims of violence and discrimination, wrote a couple of offense charges and requests for police protection. Besides that, we

have started a fund through which *Da se zna!* covers legal expenses. Moreover, the association *Da se zna!* started a fund for the psychological support for the victims in acute situations of violence, and all of its resources are donated by the members of LGBTTIQA community. In the future *Da se zna!* is planning to strengthen its legal team and to start civil procedures for any case that is of strategic value for the LGBTTIQA community in Serbia. It is also important to note that *Da se zna!* has established collaboration with the First and Third Public Prosecutor's Offices in Belgrade, while it also communicates continuously with the National Public Prosecutor's Office. As per *Da se zna!*'s initiative, the National Public Prosecutor's Office has filed a request for the protection of legality to the Higher Cassation Court, based on the verdict of the Valjevo's Primary Court that did not take in consideration the Article 54a of the Criminal Code. This direction of *Da se zna!*'s development should empower LGBTTIQA people, those who have not done it until now, to report violence and discrimination on the basis of gender identity and/or sexual orientation and should justify the trust of LGBTTIQA people who felt safe enough to report incidents to *Da se zna!*.



► Extreme physical violence

- Any attack on a person that potentially causes serious physical harm.
- Any attack on property, for example by arson or petrol bombs, where there is the potential for people in the property to be killed, for instance if the building is inhabited or occupied at the time of the attack.
- Bombs, including letter bombs. This includes any viable device that either detonates or is defused, and therefore was life threatening. It also includes any device which is assessed to have been intended by its sender to be viable, even if after analysis it is found that it was incorrectly constructed and therefore would not have gone off.
- Kidnapping.
- Shooting.
- Attack by weapon or any other object that can be used to harm.

► Hate crime (or bias crime)

Hate crime are criminal acts motivated by bias or prejudice towards particular groups of people. This could be based, inter alia, on gender, gender identity, sexual orientation, ethnicity, religion, age or disability.

A hate crime comprises two distinct elements:

- It is an act that constitutes an offence under criminal law, irrespective of the perpetrator's motivation; and
- In committing the crime, the perpetrator acts on the basis of prejudice or bias.

Thus, the perpetrator of a hate crime selects the victim based on the victim's membership or perceived membership of a particular group. Where the crime involves damage to property, the property is chosen because of its association with a victim group and can include such targets as places of worship, community centres, vehicles or family homes.

► Hate-motivated incidents

An act that involves prejudice and bias of the sort described above but does not amount to a crime is described as a "hate-motivated incident". The term describes acts motivated by prejudice ranging from those that are merely offensive to those constituting criminal acts in which the crime has not been proven. Although hate-motivated incidents do not always involve crimes, such incidents often precede, accompany or provide the context of hate crimes

► Hate speech

Forms of expression that are motivated by, demonstrate or encourage hostility towards a group or a person because of their membership of that group. Since hate speech may encourage or accompany hate crimes, the two concepts are interlinked. States differ considerably as to which forms of expression can be limited or prohibited because of their hateful nature.

► Homicide

Any attack on a person that causes loss of life.

► Monitoring

A broad term describing the active collection, verification and use of information to address human rights problems over time. Human rights monitoring includes observing and gathering information about incidents and events (elections, trials, demonstrations, etc); it has a temporal quality as it generally takes place over an extended period of time. In the specific context of hate crime, the purpose of monitoring is to document violence motivated by hatred and to draw the attention of national authorities or international organisations to the violation of recognised human rights. Monitoring ultimately aims to collect sufficient evidence of hate crimes to convince authorities and the public that something has to be done to improve the situation. Monitoring is also done to ensure that the authorities are adhering to the law, guidelines or agreements. It can also show trends over time.

► Recording of hate incidents

In the context of hate incidents recording means the police or NGOs are keeping a log, or record, of all hate crimes/ incidents that have been experienced and reported by people. It involves taking down key information that relates to these incidents, such as when they occurred and a description of what happened.

► Third Party Reporting

The aims of having third party reporting is to increase reporting of hate crime and to increase the flow of intelligence from the different communities whose members suffer from hate motivated incidents/crime. These are achieved by providing members of the public with an alternative point of contact, which is different from the police. There are a number of initiatives that encourage and assist victims and witnesses to report hate-motivated incidents and crime, these include:

- *Self-reporting schemes*, allowing victims to make direct reports of incidents/crimes without having to speak to the police.
- *Assisted reporting scheme*, involving a third party such as a voluntary organisation, who take details of an incident or crime and pass the report to the police.

► Threats and psychological violence

- Any clear and specific threat, whether verbal or written. If the threat is not clear and specific then the incident should be recorded as Abusive Behaviour.
- Any 'bomb' which is assessed to be a hoax. This would include something that was designed to look like a real device but not intended to be viable, for instance if it does not contain any explosive material.
- Stalking, including repeated undesired contact (phone calls, emails, letters, show up unexpectedly, etc.), following or laying in wait for the individual, making threats to the individual or her/his family.
- Blackmailing to divulge publicly, or to family members or at work, that a person belongs to the LGBTI community.
- Restriction of freedom (e.g. locking up a person).
- Defamation, such as outing the LGBTI identity.
- Bullying (e.g. at school, at work place).

► Victim perception

The perception of the victim (or of a witness) is the defining factor in determining that an incident should be investigated as a hate incident. No assumption regarding the lack of motivation as a cause of an incident should prevent reporting it as a hate incident if the victim or a witness indicate such a perception. A victim of a homophobic or transphobic hate crime or incident does not have to be a member of LGBTI communities. For example, a heterosexual man who is verbally abused leaving a gay bar may well perceive that it is motivated by homophobia although he himself is not gay. The deciding factor lies in the perception of the victim or a witness.

► Repeat Victimisation

A person, who becomes the victim of a hate crime or incident, may already have been the victim on a number of occasions. Previous incidents may not have been reported to the police for a variety of reasons and as such, when an incident is reported, it may be the culmination of a lengthy course of victimisation.

► Secondary Victimisation

When a person is the victim of a hate crime and they perceive a lack of commitment or understanding in the response from the police, this can have the effect of victimising them for a second time. Whether they are in fact receiving such a level of response is immaterial, as the victims personal reaction is based on their immediate perception.

► Victim of a homophobic or transphobic hate crime/ incident

A victim of a hate incident/ crime is a person that has suffered of any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate based upon his/her sexual orientation, gender identity or gender expression. The perception of the victim or any other person is the defining factor in determining a homophobic or transphobic hate incident.

ANNEX: BACKGROUND ON *DA SE ZNA!*

In 2014 the case of extreme physical violence happened in Valjevo, where the perpetrator openly said that he was “irritated” by D.P. „dressing up as a woman” which was directly mentioned in the Verdict. In spite of that, in February of 2017 the court in Valjevo during delivering of the verdict did not take in consideration the Article 54a of the Criminal code which defines aggravating circumstances and harsher punishment for hate crime, and the perpetrator was sentenced to only one year of probation. Because of this harsh disregard for the notion of hate crime, association *Da se zna!* with its legal team submitted the Initiative for submitting the Request for protection of legality to the Republic Public Prosecutor’s Office and at this time is expecting a positive decision of High Cassation Court against the verdict of the Court of First Instance in Valjevo.

Having in mind that *Da se zna!* is strategically oriented towards LGBTTIQA youth and that it is a leader in digital activism in Serbian activist community, available systems of support and activities of *Da se zna!* were promoted usually through the Internet. During first two years of existence, *Da se zna!* has gained 1.768 Twitter followers, 2.965 Instagram followers and 3.311 Facebook followers.

Number of visits to portal dasezna.lgbt, which serves as one of the main tools for reporting hate crimes motivated by homophobia and transphobia, serve as a further proof of wide scope and visibility of *Da se zna!* As it can be seen from the table below, number of visitors, visits and views of *Da se zna!*’s portal is 10 times bigger than in the same period last year.

Period	No. Visitors	No. Visits	No. Views
1.1.2017–1.9.2017.	4.365	5.836	9.303
1.1.2016–1.9.2016.	498	761	1.064

Table 1: Statistics from the portal dasezna.lgbt

ABOUT THE AUTHOR

Miloš Kovačević holds both BA (2015) and MA (2016) in Philosophy from the Faculty of Philosophy in Belgrade. As an activist of the Helsinki Committee for Human Rights’ Youth Group he worked on promoting equal rights for LGBTTIQA people through alternative media and culture (2010-2014). Following that he worked at *Red Cross Palilula* as a programme coordinator (2015-2016). He is an author of different articles in the field of political philosophy and has translated articles in the fields of bioethics and feminism. Currently he is a PHD candidate at the Faculty of Philosophy in Belgrade, researcher and editor at *The Network for Theory and Practice of the commons – zajedničko.org*, and from 2017 he works with *Da se zna!* on recording crimes motivated by homo/transphobia.

ABOUT THE ASSOCIATION *DA SE ZNA!*

The association *Da se zna!* is a group of activists gathered around a goal of empowering LGBTTIQA to actively engage in pursuing of their rights, through direct and indirect work with LGBTTIQA community, advocacy for the appropriate reactions of the Republic of Serbia’s responsible authorities and enhancing the efficiency of state systems of support and protection in the cases of violence and discrimination.

The main tool of the association *Da se zna!* is the online platform dasezna.lgbt which, through questionnaire, offers a completely anonymous and safe way of reporting for the LGBTTIQA people who experienced discrimination and/or violence. This portal is not only a place where LGBTTIQA people can safely report violence and/or discrimination, but is conceptualized as a HUB for community members, where they can get informed on existing mechanisms of protection and relevant legal, social and political aspects of safety of LGBTTIQA people.

BRING OUT THE DATA, NOT EMPTY DRUMS AND TRUMPETS



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