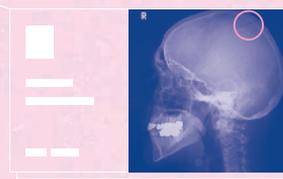
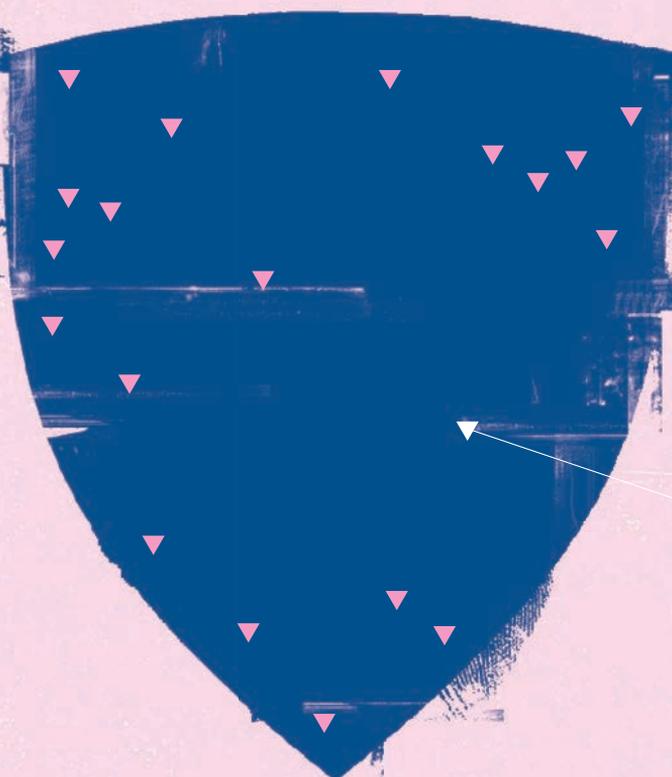


One Step Forward Two Steps Backward

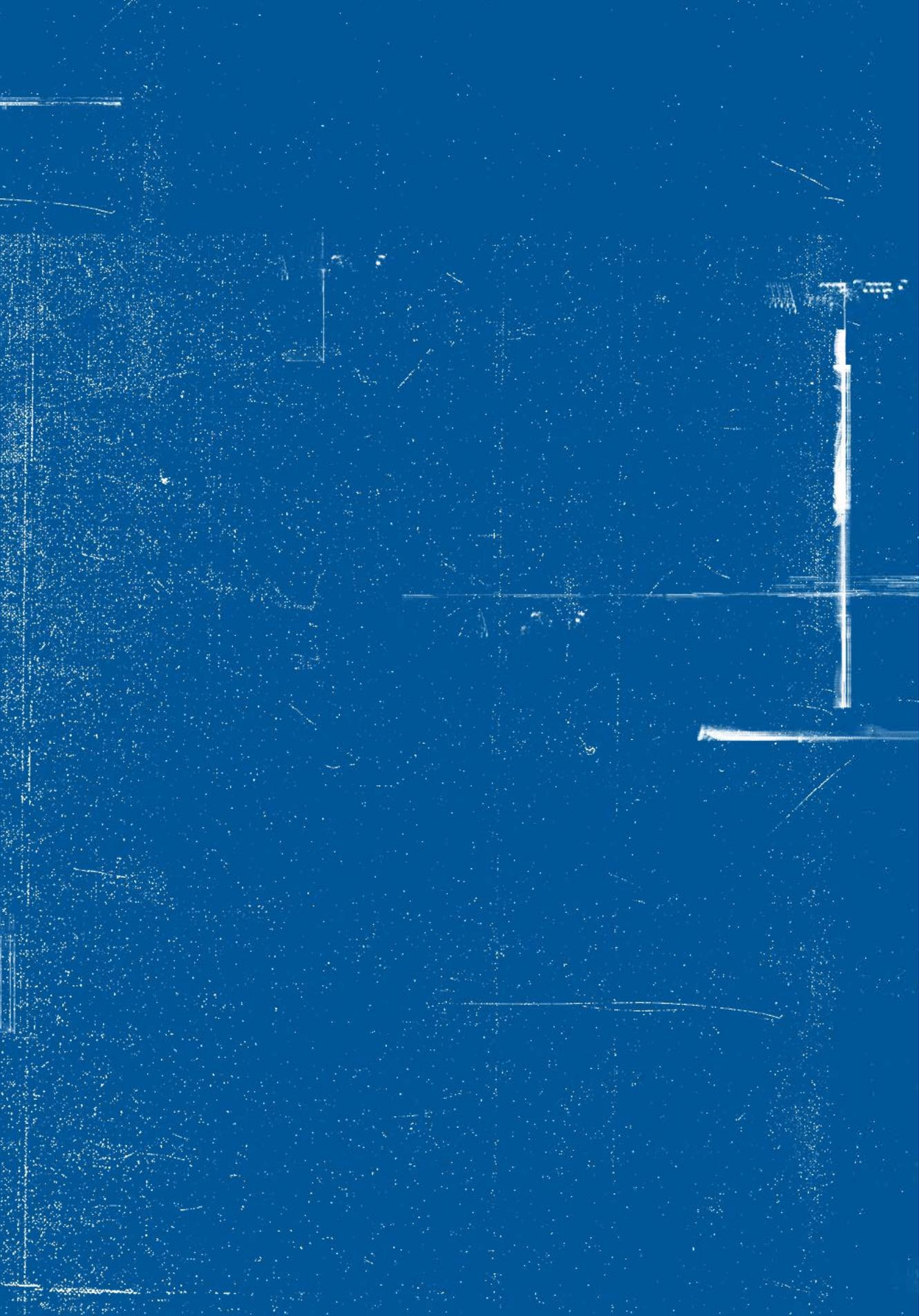
The Role of Police in Strengthening the Prevention of Mechanisms
and Protection against Crimes Motivated by Homophobia
and Transphobia in Serbia

Aurelija Đan



Kingdom of the Netherlands





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Word of thanks

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Abbreviations

LGBTI – lesbian, gay, bisexual, transgender, intersex

Charts

Chart 1. Conducted activities in regard with LGBTI issues within the police in 2016

Chart 2. A number of attacks against LGBTI people in the period from 2012 to 2015

Recommendations

For the government of the Republic of Serbia



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 LGBTI people in Serbia, which would in no small part focus on the safety of LGBTI people. Such a strategy would represent the first step toward a comprehensive response in fighting violence and discrimination against LGBTI people in Serbia.

For the police



The adoption of internal procedures dealing with the position of LGBTI people in the police is needed, as well as the recruitment of LGBTI people in the police force and also fighting discrimination in the workplace. This plan needs to state a clear zero-tolerance policy for discrimination and violence against members of the LGBTI community by members of the police in the line of duty, as well as outside of duty.

A Plan of Action to implement the Strategy in the following period must be adopted. Further, an evaluation of the last plan and its impact is needed. A new Plan of Action needs to list goals referring to respect for the difference and improvement in safety of marginalized groups, clearly focused on the LGBTI community. Activities need to be clearly defined with set deadlines and necessary material resources.

The police needs 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 Ministry of Internal Affairs needs to adopt an annual plan for the education of police force members that would deal with topics specifically concerning the LGBTI population and crimes motivated by homophobia and transphobia. Additionally, education inside the Ministry of Internal Affairs is needed on these topics to decrease secondary victimization and discrimination. When designing these education programs, LGBTI civil society organizations must be consulted given their experience with LGBTI individuals who could improve the quality of these trainings. All education about partner violence and family violence must include violence against LGBTI people.

A new systematization inside the Ministry of Internal Affairs needs to include a sole position for an officer for communication with the LGBTI population. This would not only clarify the description of this work position and the responsibilities that it carries but would also help both the selection and education of officers for this position as well as the development of their programs by clearly defining them.

It is necessary that the national officer for communication with the LGBTI community has support from the highest political level that exists in the police so that tasks are carried out more efficiently and that the national officer to be able supports local officers. It is also necessary for the highest-level authorities in the Ministry of Internal Affairs to recognize and understand the importance of the existence of the institution that is the officer for communication with the LGBT population.

It is necessary for local officers for communication with the LGBTI community to be in touch with LGBTI civil society organizations so that these two sides can cooperate. It is of great importance to have contact information for these officers publicly available on the website of the Ministry of Internal Affairs so that members of the LGBTI community would be informed that such an institution exists, which itself would be an incentive for members of the LGBTI community to contact that institution when in need.

Access to information of public importance must be improved as well as the quality of cooperation between civil society organizations and the Ministry of Internal Affairs in regards to sharing information related to LGBT topics and happenings inside the Ministry of Internal Affairs that are of interest to the LGBTI community. To be more specific, this would include proactive and regular publishing of documents and reports on their achieved work results, especially those referring to marginalized groups, in this case being the LGBTI population. The office for cooperation with the media should, working with other units, improve communication with citizens via the website of the Ministry of Internal Affairs by publishing contents regarding LGBTI related topics.

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 LGBTI 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.

The system of complaints and protest letters regarding police work should be updated by a clear definition of the procedure via the website of the Ministry of Internal Affairs. It is also necessary to separate complaints regarding discriminatory and non-professional behavior of police officers in communication with LGBTI individuals.

When performing their annual inquiry about public opinion on police work, the Ministry of Internal Affairs needs to pay special attention to the trust (or the lack thereof) that LGBTI individuals have for the police. Only in that way, a broader picture of the LGBTI population's opinion on police and their work could be established and their ideas and recommendations for the improvement of police work gathered.

Introduction

Threats, street violence, intimidation, attacks and inappropriate comments regarding LGBTI individuals are still a big part of everyday life in Serbia. Up to this day, no final verdict was brought declaring guilt for a crime motivated by hate based on sexual orientation or gender identity. Although legal and strategic platforms of protection exist, the reaction of the institutions in charge regarding attacks motivated by homophobia and transphobia are often lacking.

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. With the intention to process attacks against LGBTI individuals, empower the community and incentive the reporting of these cases, the association *Da se zna!* created an online platform for safe and anonymous reporting of violence and discrimination. Until now, the documentation was selective and inconsistent, a problem that was solved by a special method of collecting and documenting through a program called *Martus*.¹ Via a simple fill-in form that is used to report violence and discrimination, which is standardized with forms used by ILGA Europe on the website of *Da se zna!*, one can take a look into all the documented cases. Since 2014 until today, 45 cases have been reported and evidenced regarding violence and discrimination.² Besides direct reports by the victims of violence and/or discrimination, the association *Da se zna!* uses other sources, such as reports of other LGBTI organizations that victims turn to as well as pressclippings.³

This report has the goal of contributing to the effort of the organization *Da se zna!* to create a more realistic view of the position of LGBTI people in Serbia regarding their safety, as well as a more comprehensive insight into the actions taken by police. Although the system of protection is made out of large group of institutions whose duty it is to react in cases of violence and discrimination against LGBTI people, we

1 *Martus* is an open source software used in the US that proved best in documenting gender-based violence
2 <http://dasezna.lgbt/cases.html>
3 During the past two years, 9 memoranda were signed regarding cooperation with organizations in the local area trained for documenting cases on dasezna.lgbt

place our emphasis on the police, as they are the first to come in contact with the victims. The police have a big role in the realization and respect of LGBTI human rights, which makes the adequate and timely reaction by police the crucial factor of the general feeling of safety among the members of the LGBTI population. Having in mind that data shows that reform of the sector of safety did not improve the position of LGBTI population significantly, the goal is to analyse challenges that the police face as well as shortcomings in their practice. Further, this report will use good examples of foreign countries' police practices as guidelines on how to improve the work of police regarding reactions on the cases of violence and discrimination caused by homophobia and transphobia. The goal is to increase the trust the LGBTI community has for the police as well as increase the cooperation between the police and civil society organizations, finally improving their safety.

Methodology of this research is based on the analysis of primary and secondary sources of information. More accurately, using an analysis of the content of the law, reports of different government organs, international organizations and examples of foreign practices, recommendations are given regarding more efficient cooperation between the LGBTI population and the police. To identify the main problems and shortcomings of the Ministry of Internal Affairs when it comes to the protection of LGBTI individuals, interviews with the representatives of LGBTI organizations were performed as well as interviews with the members of police working actively on the improvement of their position. Additionally, all publically available data and data gained from the Ministry of Internal Affairs via the Request on the information of public importance regarding this topic have been used in this report.

Finally, it should be noted that this report does not place all the responsibility for the safety of LGBTI people on the police. It should be said that the Prosecutor's Office and other institutions represent important parts of the mechanism that fights violence caused by homophobia and transphobia. With that in mind, the main idea of this recommendation is to take maximal responsibility in each institution under its line of duty with the goal of protecting all citizens of Serbia. That is the only way in which it is possible to establish a coordinated system that could prevent violence and protect LGBTI individuals, working pro-actively in such cases.

Position of LGBTI people in Serbia

Serbia has adopted legal protections for LGBTI people in its legal platforms, but this is rarely implemented in practice.⁴ Although the position of LGBTI people has majorly improved since 2000, especially after the Law on the Ban of Discrimination was adopted in 2009,⁵ the safety of LGBTI people is still on a very low level. The Pride March is a good step in the sense of a political will to improve the position of LGBTI people, but it is not enough in and of itself. Attacks against LGBTI people are more visible, but due to the lack of their exact population size, it is impossible to know whether they are more frequent. Prejudice against the LGBTI population is widespread, which can be seen from a piece of research that reports that as much as 80% of the public would not want an LGBTI person as their neighbor and that as little as 20% know and communicate with an LGBTI person. 26% say that they would completely cut off communications with anyone whom they find out to be of a different sexual orientation than heterosexual. The same research states that 23% of LGBTI people have been victims of physical violence based on their sexual orientation or gender identity⁶.

The latest report by the European Commission states that members of the LGBTI population are, after Romani people, the most discriminated category of the population and that stronger political support is needed to fight violence and discrimination against LGBTI people.⁷ The latest report of the European Commission against racism and intolerance⁸ also confirms that reporting, investigating and punishing crimes motivated by homophobia and transphobia needs to be improved. That this is the case is demonstrated by the latest attacks against trans women in Belgrade as well as the police reaction to the attacks.⁹ Further, activist Boban Stojanović and his partner gained political asylum based on 23 pages of taxatively counted cases of violence he experienced, which still have not been solved.¹⁰ This all points to the fact that in Serbia there is a huge difference between the law, its implementation, and both reporting and processing violence when it comes to cases regarding LGBTI people.¹¹

4 Data provided by Jovanka Todorović, representative of LGBTI organization *Gayten* from Belgrade in an interview from December 1, 2016.
5 *Law on the Ban of Discrimination* (Sl. glasnik RS, no. 22/2009).
6 *National Democratic Institute (NDI) et al. (2015), LGBT Public Opinion Poll Western Balkans* (June/July 2015), <http://www.slideshare.net/NDI/democracy/ndi-public-opinion-poll-in-the-balkans-on-lgbti-communities>, 10. 11. 2016.
7 European Commission, *Report on Progress – Republic of Serbia*, Bruxelles: 2016. page 19. Available at: http://civilnodrustvo.gov.rs/upload/documents/Razno/2016/godisnji_izvestaj_16_srp.pdf
8 *Report of ECRI about Serbia*, (European Commission Against Racism and Intolerance, May 16, 2017, page 10) Available at <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Serbia/SRB-CbC-V-2017-021-SRP.pdf>
9 (N1), *Group of men attacked trans person in downtown Belgrade*, <http://rs.n1info.com/a246043/Vesti/Vesti/Pretucena-trans-osoba-u-Beogradu.html>, May 3, 2017.
10 Interview with Boban Stojanović held on March 10, 2017.
11 Data provided by Dragana Todorović, representative of *ERA* organization in an interview held on January 11, 2017.

Lack of political will to protect and give rights to LGBTI people

Political will regarding the rights and position of LGBTI people is seen through the devotion of all participants performing activities and solving problems facing this community. Although the visibility of LGBTI community has been largely improved, the lack of response from political officials and institutions in the line of duty shows that there is still a continued tolerance for violence against LGBTI people.

On the highest political level, a big improvement has been made in the sense of the visibility of LGBTI people through the appointment of a lesbian as Minister of State Administration and Local Self Government.¹² This political act has two ways it can be interpreted. Ana Brnabić is the first minister who does not hide her homosexual orientation, which is very supportive of members of the LGBTI community and could help to decrease stereotypes about LGBTI people in public. On the other hand, it should be said that she did not out herself, but rather that the Prime Minister did so, which could be seen by the LGBTI community as at least a declared political dedication to solving problems facing this community.¹³

A statement by the leader of the caucus of the ruling party (SNS) shows that the government is not ready to provide full protection for LGBTI people. Namely, Aleksandar Martinović used his position as a speaker in Parliament to repeatedly make discriminatory statements about LGBTI people with a subsequent lack of political condemnation.¹⁴ The association *Da se Zna!* complained to the Commissioner for the protection of equality, but due to his emissary immunity, guaranteed by Article 103 Atandpoint 2 of the Constitution of the Republic of Serbia, he has not been punished although he violated the Law on the Ban of Discrimination. A lack of political will to punish hate speech from the highest political level is clearly confirmed by the lack of action from the Commissioner, who had at least a chance to publically point out the negative consequences that this kind of hate speech could have on the LGBTI community, but he has failed to do so. Further, there is still no codex adopted in accordance to which hate speech by emissaries could be punished.

12 Prime Minister Aleksandar Vučić appointed Ana Brnabić as Ministry of state administration and local self-government and publically stated that she is a lesbian. Source: *Blic online* <http://www.blic.rs/vesti/politika/vucic-gej-ministar-ka-u-vladi/8lfqn53>, December 9, 2016.
13 Source: (*Voxfeminae*), *Who needs gay minister in Serbia?* <https://www.voxfeminae.net/cunterview/politika-drustvo/item/10435-kome-je-potrebna-gej-ministrice-u-srbiji>, December 10, 2016
14 More information on the statement by Aleksandar Martinović can be seen here: <https://www.youtube.com/watch?v=xnvako0ohuA>



Political will to solve the question of LGBT rights in Catalonia

One of priorities for the officers of the autonomous region of Catalonia is the prevention of homophobic and transphobic behavior, a plan which includes multiple departments designed to prevent discrimination against LGBTI people. This plan was divided among all ministries included in the protection of LGBTI people and their rights. Every ministry used this plan to re-think and advance their internal policies and procedures concerning the LGBTI population and started implementing activities that would contribute to the fight against homophobia and transphobia in the society. In this way, the administration of Catalonia demonstrated that they are determined and unapologetic when fighting discrimination and violence against LGBTI individuals.¹⁵

15 Polacek R, Déroff J, *Joining forces to combat homophobic and transphobic hate crime Cooperation between police forces and LGBTI organisations in Europe*, (ILGA Europe, Brussels: 2010, p. 67)

The association *Da se zna!* has requested the National Assembly to provide such a codex but has been given the answer that it is still not written. This means that government representatives can peacefully continue with discriminatory speech without any disturbances.

An additional example that shows the harsh reality of the lack of political will to improve the position of LGBTI people is the case of the temporary appointment of Miša Vacić into the office for Kosovo and Metohija. Once the leader and PR person of the extreme right-wing movement *SNP 1389*, he was convicted for spreading hate against LGBTI people but still somehow gained temporary employment by the government of the Republic of Serbia.¹⁶

Subjective feeling of safety and trust in police among LGBTI population

An inquiry performed among citizens of Serbia showed that a little more than one half of citizens (54%) trust the police, while 44% of citizens completely distrust this institution.¹⁷ This inquiry, however, did not go into whether the LGBTI population is satisfied with the work of the police. Results from 2013 show that the LGBTI population, of all population groups, is the least satisfied with the police work.¹⁸

The process of reforms inside the sector of safety did not bring any notable improvement in the position of the LGBTI population, and therefore these individuals still face violence and discrimination on a daily basis. As shown by the data from a 2016 inquiry, members of the LGBTI population tend to feel less safe than members of the general public and have no trust for the institution of the police and their work.¹⁹

It should be noted that an important step was made toward the realization of LGBTI individuals' rights when the Pride March and Trans People's March were held, which enabled people of different sexual orientations and gender identities to use their right to gather peacefully. The organization of the Pride March year after year renews the political will, which gives the impression that the government wants

16 Trials to Miša Vacić lasted 4 years and after numerous postponements, Vacić was sentenced to 7 months of suspended sentence for discrimination against LGBTI people, unlawful arms possession and obstruction of police officers on duty.

17 Inquiry performed by *IPSOS* sampling 1000 citizens of Serbia over the age of 18 with permanent residence in Serbia. Source: Đan A, *Citizen's opinion on police*, (Belgrade Center for Safety Policies, Belgrade: 2016)

18 Đan A, Klisarić M, *Relations between police and victims of crimes: analysis of processes and satisfaction with the police work*, (Temida, March 2014, pages 113-13)

19 Radoman and others, *How does the reform inside sector of safety concern people's safety in Serbia – inquiry on the reform and its influence LGBTI population*, (Center for Public Policies Research, Belgrade: 2016)

to deal with the issues regarding human rights of LGBTI people. This means that the police are sensitive to the political will and behave in accordance with the directives from the Ministry of Internal Affairs.²⁰ On the other hand, the context in which the Pride March was held, with the huge presence of police and the city under the siege by the police, does not fulfil the main purpose of the Pride March as a place for LGBTI people to gather freely and, as such, it maintains the impression in the LGBTI community that they are not safe. Nevertheless, an inquiry by *Center for Public Policies Research* from 2016 showed that the successful organization of the Pride March has a positive effect on the feeling of safety among members of the LGBTI population, without regard to whether certain individuals were at the Pride March or not. It is also worth noting that positive moves are seen in the area of media coverage of the Pride March, which was more supportive regarding LGBTI individuals.²¹

Shortcomings in implementation of the strategic platform

Serbia has adopted a fair number of strategic documents that, among other things, have the goal to improve the position of LGBTI people, advance their safety and enable Serbia to approach the European Union more swiftly.²² Nevertheless, when it comes to the realization of the action plans that were adopted, Coalition *PrEUgovor* states that reports 23 and 24 do not demonstrate the realization of agreed-upon measures, while those that were realized did not bring the intended changes.²³

In a similar context, *Labris* followed the implementation of the Plan of Action for the implementation of strategies of prevention and protection from discrimination for the years 2014-2018.²⁴ The data collected in this period from the institutions concerned show that LGBTI topics are marginalized in general anti-discrimination policy.²⁵ It is also shows that measures and actions do not follow the pre-defined timeline. For example, the Office for Human and Minority Rights was late in the realization of an LGBTI related

20 Data provided by Goran Miletic, program director of *Civil Rights Defenders* and one of Belgrade Pride March's organizers in an interview held on February 10, 2017

21 *Analytical report on failings and court system shortcomings in implementation of existing antidiscriminatory policies, prevention of violence and hate speech against LGBTI people*, (Yucom – Comitee of jurists for human rights, Belgrade: 2016)

22 *Strategy of the police in the community and the Plan of action to implement Strategy of the police in the community, Plan of action for 23, Strategy against discrimination with the Plan of Action, Plan of Action for police cooperation with sexually diverse population.*

23 Report of the Coalition *PrEUgovor* on advancements of Serbia in the fields of Chapters 23 and 24 available here: <http://preugovor.org/Izvestaji/1357/Izvestaj-koalicije-prEUgovor-o-napretku-Srbije-u.shtml>

24 *Plan of action for implementation of the strategy of prevention and protection from discrimination for period 2014-2018* Available at: http://www.ljudskaprava.gov.rs/sites/default/files/dokument_file/akcioni_plan_-_srpski.pdf

25 *Rainbow shadow over Serbia*, (*Labris*, Belgrade: 2016, page 11)

project, so that planned activities were never performed.²⁶ Nevertheless, a positive fact is the creation of the Council for Follow Up of the Action Plan, which included members of civil society organizations, thereby enabling following its implementation. In this way, it is not only the measures that were not performed that were gathered, but it is also possible to reconsider those that did not provide the desired effect.²⁷

Lack of focus of the model of police in the community regarding marginalized groups

The model of the police in the community dates back from as long ago as 2002,²⁸ but it was never applied to its full extent in practice. This concept is primarily based on close cooperation with citizens and an analysis of their safety concerns with the goal of preventive work. Nevertheless, this model does not recognize the specific needs of marginalized social groups and does not base itself on risks that members of these groups face.

The model of the police in the community is intended to encourage citizens to communicate to the police in different situations, not only when they strictly need protection and help. In this way, close cooperation and trust between the local community and the police could be built. A plan of action for the implementation of the model of the police in the community for the years 2015 and 2016 focused on the measures related to vulnerable social groups and reporting the results of such measures once they were finished with. Regardless, this does not focus directly on the LGBTI community and does not specify their safety problems, and thus it does not include practical measures to improve their safety. Included into the strategic goals of "Dedication to the respect of ethical principles and diversity", there are activities that include "Police work with respect to diversity". Included within that are also tasks regarding "training police officers on ethical standpoints and skills of communication with respect to citizens of national minorities and vulnerable social groups". There were no clearly-defined deadlines for the realization of these activities because the plan mainly implies a continuity in undertaking these actions. The part regarding the police work with respect to diversity does not include a defined budget, nor any specific indicator of quality and/or quantity of the actions realized.²⁹ Also, no evidence or evaluation of the advancements achieved exists on the model of the police in the community, nor does any plan regarding the possible creation of a new plan for the incoming period.

26 *Ibid.* page 36

27 *Ibid.* page 36

28 Dičić Kostić N, *Police and vulnerable groups, Collection of practical advice for police reformation*, (OSCE, Belgrade: 2013) <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2009/01/Zbirka-predloga-prakti-%C3%ACne-politike-za-reformu-policije-br-8.pdf>

29 *Ibid.* page 12

Organizations of civil society are the main sponsors of police activities

The fourth report on the Plan of Action regarding Chapter 23 exhaustively reports all the activities performed by the Ministry of Internal Affairs regarding the predefined goals (Chart 1).³⁰ Those activities could be split in several groups: forums, meetings and trainings in which police officers participated as exhibitors or direct participants of educational contents.

The majority of these activities were realized at the time of one event, that being the Belgrade Pride March, which indicates that educational activities are performed ad hoc, just to be seen as something completed and as such claimed in the Plan of Action regarding Chapter 23, leaving open the question of real political change of relations from the Ministry of Internal Affairs towards LGBTI topics. Additionally apparent is the fact that these activities were initiated by LGBTI organizations as parts of different projects. On one hand, it is good that these educational contents are performed in cooperation with LGBTI organizations, while on the other hand it is clearly visible that the initiative from the Ministry of Internal Affairs is lacking in regards to creating LGBTI related contents. That gives the impression that the civil sector performs the activities in the name of the Ministry of Internal Affairs³¹ and that they are falling short in the area of a will to create a better safety environment and decrease discrimination against the LGBTI community. For example, the Ministry of Internal Affairs does not include the topic of sensitivisation of police officers for work with the LGBTI community in their program of professional trainings. There is no education for police officers regarding hate crimes. The Commissioner for the Protection of Equality and the Ministry of Internal Affairs conducted a series of seminars for police officers regarding recognition and reactions to discrimination. Although these seminars mention discrimination against LGBTI people together with all other social groups, no attention is given to the fact that topic of discrimination against LGBTI people is complex and needs special attention.³² On the other hand, the Ministry of Internal Affairs does not have the sufficient finances and capacities to coordinate events specifically regarding LGBTI topics. That leaves civil society organizations as the main organizers and sponsors of educational activities given their ability to provide resources for such contents through their projects. In such a manner, the Ministry of Internal Affairs could choose topics that could be dealt with throughout the year as well as organizations to cooperate with.³³

Chart 1. Activities performed in 2016³⁴

30 Report on implementation of the *Plan of Action regarding Chapter 23*, December 2016. Report is available at: <http://www.mpravde.gov.rs/files/Izve%C5%A1taj%20br.%204-2016%20o%20sprov%C4%91enju%20Akcionog%20plana%20za%20Poglavlje%2023.pdf>

31 Data provided by Jovanka Todorović, representative of LGBTI organization *Gayten* from Belgrade in an interview held on December 1, 2016.

32 Data provided by Jelena Vasiljević, representative of LGBTI organization *Labris* from Belgrade in an interview held on January 12, 2017.

33 Data provided by Vladimir Stojanov, head of Department for organization, prevention and police work in an interview held on March 27, 2017.

34 Report from 4/2016 on implementation of the Chapter 23, December 2016. Report available at: <http://www.mpravde.gov.rs/files/Izve%C5%A1taj%20br.%204-2016%20o%20sprov%C4%91enju%20Akcionog%20plana%20za%20Poglavlje%2023.pdf>

| Activities | Date |
|--|---------------------------|
| ▶ 4 forums in 4 different cities organized by <i>Labris</i> under the title “Police work with the LGBTI community” | February 2016 |
| ▶ Officer for communication with the LGBTI community awarded the <i>Duga (Rainbow)</i> award on the occasion of the International Day Against Homophobia and Transphobia | May 2016 |
| ▶ In the organization of the regional association <i>ERA</i> , a forum was organized under the title „Being LGBTI in Serbia” in which there was notable participation of members of the Ministry of Internal Affairs | 24 June 2016 |
| ▶ Officers for communication with the LGBTI community participated in the forum titled „World’s first LGBTI conference dedicated to the police force and justice system” | 2-7 August 2016 |
| ▶ Joint meeting of the Commission for Human and Minority Rights and members of the Commission for European Integration was held | 9 September 2016 |
| ▶ Officers for communication with the LGBTI community participated in the opening ceremony of Belgrade’s “Pride Week 2016” | 12 September 2016 |
| ▶ Representatives of the Ministry of Internal Affairs took part in a discussion about the Law on Gender Identity organized by NGOs <i>Gayten-LGBTI, Belgrade Pride</i> and <i>Civil Rights Defenders</i> | 15 September 2016 |
| ▶ Meetings were held with the organizers of the Belgrade Pride March | September 2016. |
| ▶ Pride March and Trans Pride Rally were held | 18 September 2016 |
| ▶ 14 trainings lasting two days were held under the title “Together to the improved position of LGBTI people in Serbia” in 7 cities organized by <i>Labris</i> and <i>Atina</i> | October and November 2016 |
| ▶ <i>Duga</i> organization held 10 roundtable discussions about SOS lines for LGBTI people and the promotion of good practice of cooperation between the police and civil society organizations | Novembar 2016. |
| ▶ Promotion of the Manual for Work with LGBTI population | December 2016 |



LGBTI inclusive training for all employees of Toronto Police Force

The police in Toronto have decided to develop and implement LGBTI inclusive training for all their employees after setting up a mechanism of complaints against the police. Training for their employees was designed in cooperation and consultation with the LGBTI community. The goals of these trainings are better understanding the problems and safety challenges faced by members of the LGBTI community, with a special focus on transgender individuals, using the correct terminology and generally decreasing prejudices surrounding the LGBTI population and increasing tolerance.³⁵

35 Kyle Kirkup, *Best practices in policing and LGBTIQ communities in Ontario*, (Ontario Association of Chiefs of Police, Ontario: 2013)

Manual for police work with LGBTI people adopted without public dispute

A manual for police work with LGBTI population was scheduled in the Plan of Action for police cooperation with sexually diverse individuals from 2014 and was created to offer detailed instructions for police officers on how to treat members of the LGBTI population during police procedures. This manual is of great importance when it comes to the sensitization of police officers and aims to reach as big a number of employees in the Ministry of Internal Affairs as possible. The manual is very educational and contains many important parts that would help police officers understand LGBT topics much better. Nevertheless, some key parts needed to explain procedures in cases of violence are missing or poorly explained. For an example, hate crime defined by Article 54a of the Criminal Code of the Republic of Serbia is explained in only 4 paragraphs. Topics like domestic and partner violence, which LGBTI people regularly face, the position of LGBTI people in the police and procedures of documenting violence, which is of key importance for police work and further processing, were left completely out. The manual was printed in 1000 copies and was intended to be given to each police headquarters in Serbia. The deadline for police officers to get familiar with the content of the manual was April 1, 2017. An internal report by the Department for Police Work in the Community was scheduled to follow up afterwards.³⁶

Regarding the creation of this manual, there was no public dispute. This meant that the public had no insight into the content of the manual and no possibility to deliver comments on how to improve the text. Beyond that, the deadline for this activity was postponed so this manual was printed with a delay. All this points to a decrease in the importance of this manual as a guide in police processing regarding LGBTI individuals and, as such, brings the question how closely the content of the manual is followed in real police practice.

Officers for communication with LGBTI population – positive move in the police practice

A major innovation and positive move in police procedures regarding LGBTI individuals is the establishment of the institution of an officer for communication with LGBTI people in the Ministry of Internal Affairs. Officers for communication were envisaged by the Plan of Action regarding Chapter 23 as a special mechanism of communication with members of marginalized categories of society. In other words,

36 Data provided by Aleksandar Stojmenović, officer for communication with LGBTI community in an interview held on March 27, 2017

“World’s First LGBTI Conference Dedicated to Safety Forces and Court System”.⁴¹ The further and continued education of officers was never performed, and there are no manuals and instructions for their work. Besides the education of officers, there is a need to promote their existence inside the Ministry of Internal Affairs as well as in their local communities. Their visibility is questionable at this moment because there is no campaign that would advertise their existence, making it difficult for LGBTI people to get informed that this institution even exists.⁴²

Position of LGBTI people is not a priority of the police

Research confirms that LGBTI people are more satisfied with their work if their surroundings are aware of their sexual orientation or gender identity.⁴³ Similarly, it is expected that police officers who are out in their workplace would not only be more satisfied but will also do better job. Having in mind that machoism is an important part of police culture,⁴⁴ a public statement about a different sexual orientation or gender identity could cause various reactions within members of the police force.

Aleksandar Stojmenović, National Officer for communication with the LGBTI community, is the first publically open gay person in the police. His sexual orientation became public after receiving the *Duga (The Rainbow)* award, given for 4 years already by the *Gay Straight Alliance*. He received this award not only for his successful work but also for his courage to publically declare himself as gay. That is important in creating trust among LGBTI people for the institution of the police as well as giving them the feeling that they are welcome there. Nevertheless, no public coming out has happened among the police officers since then.⁴⁵

The public outing of Stojmenović is a good step for the LGBTI community because it clearly affirms that LGBTI people can become police officers. Although it is often thought that general prejudices against

41 Report 4/2016 on implementation of the Plan of action regarding Chapter 23, December 2016. Report available at: <http://www.mpravde.gov.rs/files/Izve%C5%A1taj%20br.%204-2016%20o%20sprovo%C4%91enju%20Akcionog%20plana%20za%20Poglavlje%2023.pdf>

42 Radoman and others, *How does reform of the safety sector influence people’s safety in Serbia –re-evaluation of the influence of the reform on LGBTI population*, (Center for Research of Public Policies, Belgrade: 2016)

43 Drydak N, *Effect of Sexual Orientation on Job Satisfaction: Evidence from Greece*, Discussion Paper No. 8045 (Anglia Ruskin University and IZA, Bonn: 2014)

44 Possession of different characteristics seen as strictly male: physical strength, dominance, determination, authority.

45 Data provided by Aleksandar Stojmenović, officer for communication with LGBTI community in an interview held on March 27, 2017



Mapping LGBTI people in the police

Police headquarters in Stafaord in 2001 performed the first anonymous research among its employees aiming to determine the number LGBTI individuals on their team as well as to determine their attitude toward the improvement of their position. This research gave recommendations that were used for the whole police institution to create strategies and plans of action in regards to human resources. Additionally, it proved a positive step to increase the visibility of LGBTI people in the police and also for members of the police to understand the importance of LGBTI topics in police work and crime prevention.

LGBTI people can be seen in the police⁴⁶ uvek preslikaju i na policiju, Stojmenović has never had any major problems due to his sexuality and has been well-accepted by his colleagues. The only notable examples of discrimination he has suffered regard verbal discrimination – he has been spoken of as being privileged for his sexuality in getting better work conditions and more traveling tasks.⁴⁷ Otherwise, there are no statistics or data on the current position of LGBTI people in the police force regarding the discrimination and insults that they really face in the work environment. Additionally, it is disputable whether there are conditions for others to come out publically and what consequences this would that carry for them. This is of real importance regarding the research on the social distance of police officers regarding different population groups. Namely, data shows that police officers show most prejudice against Romani people and LGBTI people. As much as 40% of police officers would not like having an LGBTI person as a colleague.⁴⁸

The Ministry of Internal Affairs does not have a procedure to determine, define, regulate or review the position of LGBTI individuals. This is confirmed by the new Law on Police.⁴⁹ To be more precise, the new law claims in Article 5 that discrimination is forbidden on the grounds of sex, gender and gender identity among members of the police and the Ministry of Internal Affairs, leaving out sexual orientation as a basis for discrimination and thus opening a space for potential undemocratic behavior.

Although there is no official procedure regarding the position of LGBTI people in the police force and procedures regarding them, there are indications that the internal network of LGBTI police officers could be formed. In that way, the Serbian Ministry of Internal Affairs would become part of the European network of gay policemen. It is interesting that, concerning the small numbers of outed LGBTI individuals in police, this network would also gather all police officers interested in the improvement of the position of LGBTI individuals in the police. This brings out the question of this network's performance and whether its formation would now come too early, as before its formation the police needs to create procedures that guarantee zero tolerance for homophobia and transphobia among police officers.

46 Research called *Citizen's relationship toward discrimination in Serbia* was performed by CeSID with 1200 citizens used as sample in period November 21-28, 2013 on the territory of Serbia without Kosovo and Metohija. Source: Report on *Citizen's relationship toward discrimination in Serbia*, by Commissioner for protection of equality, Belgrade: 2013.)
47 Data provided by Aleksandar Stojmenović, officer for communication with LGBTI community in an interview held on March 27, 2017
48 Zekavica R., *Fighting discrimination in Serbia with additional attention paid to the role of Ministry of Internal Affairs*, (Office for human and minority rights, Belgrade: 2014)
49 Law on Police (Official Voice, nr. 6/2016).



Network for the improvement of the position of LGBTI individuals in the police

Police headquarters in Hampshire in England formed a support network for LGBTI police officers in 2003. This network counts more than 170 members, aiming to provide them with information and help them when working. Membership contains a special mailing list of those members not ready to come out publically. This enables them to have all the information available without disclosing their sexual orientation. The network organizes many social events during year, including bisexual thematic events and events for those who have kids. This network also has the task of review of police procedures and their influence on the LGBTI population. This also includes policies on hate crimes and maternity-related regulations. It also supports and promotes the work of the officers for communication with LGBTI population inside the police. The policy of diversity includes conferences for the leaders in the police force that would empower them to create a positive work environment for LGBTI individuals in the police.

One of the sessions in that conference included LGBTI people themselves speaking about their experiences in the field of police work.⁵⁰

50 Alice Ashworth, *Protecting lesbian, gay and bisexual people: a practical guide for police forces*, (Stonewall) Dostupno na: https://www.stonewall.org.uk/sites/default/files/police_guide_web_final.pdf

Communication between police and LGBTI community takes a turn for the worse

Good communication with citizens and building relationship of cooperation are visible on the level of the National Officer for communication with the LGBTI community. Representatives of LGBTI organizations in Belgrade state that their communication with the officer for communication is on a satisfying level. For example, the National Officer for communication with LGBTI community replies to their freely sent emails and phone calls. It is also a good thing that the police showed a will to be proactive when protecting public events and communicating with organizers about potential dangers. This was especially visible during the organization of the Pride March, when the police displayed a high degree of professionalism.⁵¹

Nevertheless, if members of the LGBTI community send request for consultations with officials of Ministry of Internal Affairs who are not officers for communication with the LGBTI population but other police officers, those requests have to pass a certain procedure through the Minister's office, often resulting in rejection. For example, the association *Da se zna!* sent a request for meetings with different levels of police officers five months ago and still has not been granted an answer from the Ministry of Internal Affairs. Regarding information of public interest, the Ministry takes much more time to answer than the legally-defined 15 days. Additionally, the Ministry has still not answered questions sent to them by *Da se zna!* (See Addition 1). Out of 20 questions, police gave answers to only 2, leaving the rest unanswered. This makes it reasonable to question the efficiency and will of the Ministry of Internal Affairs to communicate and care for the safety of the LGBTI community.

Transparency of police work is not satisfying

Transparent police work means that the police define measures and goals related to the wording of the law, meanwhile communicating with the community and reporting to the community about performing said measures and their results. Transparency increases the satisfaction of the community with police work, which makes it crucial in building relations with the local community. Regarding police work with LGBTI people, information provided to the public is lacking, and the availability of data on the website of the Ministry of Internal Affairs is concerningly low.

51 Data provided by Goran Miletic, programme director of *Civil Rights Defenders* in an interview held on February 10, 2017



Social networks as a tool for police communication with the LGBTI community

A police presence on Twitter and Facebook is a good strategy for the development of relationships with the local community. Social networks are a good way for police to promote their activities or gather information or meaning for their work. In the USA, for example, more than 2800 police headquarters have active profiles on different social network sites⁵². Those police headquarters that engage in this kind of activity have officers specially trained to communicate with the LGBTI community as well as LGBTI related police social media profiles. It is the way to improve communication between the LGBTI population and the police, giving the LGBTI community more reasons to trust the police.

52 Velebit V, *A New Way to Reconnect Police and Citizens*.

Available at: <http://pointpulse.net/magazine/new-way-reconnect-police-citizens/>, January 13, 2017.

Although the Commissioner for Information of Public Interest awarded the police for the second time for the best information given on their work, there is still no systematic way of displaying their results.⁵³ The publishing of their reports and statistics is done randomly and without concern for specific information regarding safety issues of marginalized social groups – the LGBTI population included. Due to problems in documenting crimes motivated by homophobia or transphobia, there is no data regarding how often these cases happen and what the results of the police regarding those cases are.

Publishing documents of police plans concerning the improvement of safety of LGBTI people has not been done. Plan of action concerning the improvement of work and cooperation with representatives and organizations of sexually diverse individuals from 2014 is not available to the public. Thus, it is impossible to follow police activities and the fulfillment of measures stated in the plan. Additionally, the manual for police procedures regarding LGBTI individuals is not available on the website of the Ministry of Internal Affairs, thus making it impossible to find information and contact information for officers for communication with LGBTI people in different police headquarters.

Although one of strategic goals of the Ministry of Internal Affairs is to improve police work in the community and its dedication to respecting diversity,⁵⁴ their website does not display any LGBTI related topics. There is no contact information for officers for communication with LGBTI population and no information on police work regarding crimes motivated by homophobia and transphobia.

Evidencing hate crimes motivated by homophobia and transphobia needs to be improved

The first step toward the prevention of crimes motivated by homophobia and transphobia is to timely and zealously document such cases. Exact and comprehensive data on crimes, especially those with an anti-LGBTI prejudice, would give a clear direction to the police for investigation and improve the proactive prevention of these crimes. Efficient documenting leads to a better understanding of the crimes and gives specific indications about the vulnerability of LGBTI individuals. Nevertheless, the majority of these cases remain undocumented.

⁵³ Annual Commissioner's report for 2015, (Commissioner for Information of Public Interest and Protection of Personal Data, Belgrade: 2016)

⁵⁴ Priorities of Ministry of Internal Affairs available: <http://bit.ly/2sn754m>, February 10, 2017

Some of the reasons for not documenting crimes motivated by homophobia and transphobia in Serbia are:

1. Victims do not report such crimes;
2. Police does not have good evidence mechanisms;
3. Actual motives are not documented because police officers are not sensitive to homophobia and transphobia.

The Ministry of Internal Affairs of Serbia provided statistics on recorded attacks against the LGBTI population for a research, counting 40 cases between 2012 and 2015 (Chart 2). In those 40 cases were included violent attacks, heavy injuries, non-consensual sex, threats against safety, rape, insults, blackmailing, shakedown, depredation, armed threats, battery and unlawful deprivation of, freedom.⁵⁵ More men than women have been victimized, up to the point of no female victims of homophobia recorded in 2015. Considering geography, the majority of these cases are reported in bigger cities. To compare, in Sweden, there were 433 crimes motivated by homophobia or transphobia in just one year (2015).⁵⁶ The numbers for Serbia should be considered with caution with regard to the opinion of representatives of civil society organizations that only 10% of cases get reported.⁵⁷

Chart 2. Number of attacks against members of LGBTI population for the period 2012-2015

| Number of reported physical attacks against LGBTI people | Number of reported verbal attacks against LGBTI people | Number of identified perpetrators | Victims by sex | | Cases reported to local prosecutor's office |
|--|--|-----------------------------------|----------------|---|---|
| | | | M | F | |
| 40 | 50 | 20 | 51 | 9 | 28 |

⁵⁵ Response by Ministry of Internal Affairs to the questionnaire by *Da se zna!*, March 24, 2017

⁵⁶ Data available at: <http://hatecrime.osce.org/sweden>

⁵⁷ Data given by Jelena Šapić, representative of *Center for Research of Public Policies* in an interview held on December 20, 2017

The small number of documented cases of attacks against LGBTI individuals speaks about the problem that the Ministry of Internal Affairs has with reporting violence and the systematic documenting of hate crimes, including those motivated by homophobia and transphobia. The new Law on Police does not regulate the area of personal data and documenting in the line of duty of the Ministry of Internal Affairs. In the following period, documenting of criminal acts should be regulated via the new Law on Documenting, but there is no clear deadline when this law would be written and voted into power. Although the Ministry of Internal Affairs does internally process all attacks against LGBTI people via the Department for Analysis in their Sector for Analysis, Telecommunications and Informational Technologies, access to the collection and evidence of data is not consolidated. Part of the problem is that some cases are being documented by hand in police headquarters without being systematized in the joint database.

An additional difficulty is presented in the sense of gathering personal victim-related data. The earlier law on police has measures on personal data that are still being used that do not define that area in a proper way.⁵⁸ The unclear definition of the area concerning the protection of personal data has limits preventing sexual orientation being recorded as a motive for hate crime. Namely, sexual orientation is considered sensible personal data and, as such, is not mandatory to be recorded in the official documentation.⁵⁹ It is left out as a possibility that the documenting of crime motives could be done without the disclosure of personal data on the perpetrator or victim. This would then mean that documenting would be done in accordance with prejudices against LGBTI population rather than personal data on perpetrator or victim.

Safety of different categories of LGBTI population in Serbia and police procedures

Police procedures in Serbia regarding violence against LGBTI individuals is not uniform and depends in no small part on the personal attitude police officers have regarding members of the LGBTI population.⁶⁰ Safety issues of the LGBTI population are specific and need a special approach of police officers as such.

58 Regular annual report by Commissioner for citizen protection for Year 2016, page 243

59 Data given by Jelena Vasiljević, representative of LGBTI organization *Labris* from Belgrade in an interview held on January 12, 2017

60 Data provided by Jelena Šapić, representative of Center for public policies research from Belgrade in an interview held on December 20, 2016



Evidence of hate crime in Germany

German law recognizes 14 different motives of hate crime that can be recorded. Standardized reporting of incidents qualifies and documents specific crimes, after which reports are sent to the central unit for strategic analysis of criminal acts. This makes it possible to sort criminal acts by motives, type of crime, weapon used to perpetrate crime, crime scene and other criteria. Data sorted in this manner provides a good view of long-term criminal tendencies regarding hate crimes so that trends could be followed and preventive actions taken.⁶¹

61 Collecting data on hate crimes and monitoring mechanisms: Practical guide, (OEBS Mission in Serbia, Warsaw: 2014, page 37)

There is an additional consideration to bear in mind regarding LGBTI population, that it is not a unitary group, but that people of same sex orientation and transgender identity differ among themselves by attitudes in life, political orientations and ideologies, affinities and views. Thus, not all members of the LGBTI population face the same risks, and those risks need a special analysis regarding sex and gender.⁶² Those are additional factors influencing the feeling of safety of LGBTI people.

There are several factors regarding the safety of LGBTI people:

- ▶ Gender identity and gender expression differing from sex assigned at birth;
- ▶ Coming out;
- ▶ Social activism.

With that in mind, masculine lesbians and feminine gay men are more visible and more often subject to attacks than people who fit into gender categories that are socially accepted. In other ways, if there is at least a suspicion regarding some person being a member of the LGBTI population, it is highly probable that this person is going to be subject to an attack, whether in a private or public space. Another factor is coming out or a public statement about one's identity that is different from the majority. An especially vulnerable category is transgender individuals, for their identity is the most visible and least compatible with heteronormative social standards. As trans people have trouble finding work, they often find sex work their only option for survival, which makes them most exposed to stigmatization and violence.⁶³

Safety of the defenders of LGBTI rights is additionally at risk

The safety of the defenders of LGBTI rights is additionally at risk. Their visibility and participation in the public area (media, forums, public gatherings) is of great significance, for this is the way toward the sensitisation of society and support of the LGBTI community.⁶⁴ Considering their public appearances to promote the improvement of the status of LGBTI people, they are often personally targeted for attack.

62 The word SEX states biological characteristics, while the word GENDER describes expected, forced and adopted social norms regarding behaviors and appearances of biological sexes, often used in cultural and sociological sense Diamond, M. (1996). *Sex and Gender are Different: Sexual Identity and Gender Identity are Different, Clinical Child Psychology and Psychiatry*, 7(3), pages 61–82.

63 Đurić M, *Analysis of position of transgender individuals in Serbia regarding realization of personal and other human rights, (Gayten – LGBTI, Belgrade: 2013)*. Available at: <http://www.transserbia.org/resursi/teorija/528-opis-polozaja-transpolnih-osoba-u-srbiji-u-vezi-sa-ostvarivanjem-licnih-i-drugih-prava-milan-djuric>

64 Data given by Boban Stojanović, former organizer of *Belgrade Pride March* who now resides in Canada via political asylum, in an interview held on March 13, 2017

Thus, it is important for police to understand that activism is an additional factor of risk regarding the LGBTI population.

An example of good police practice regarding activists is securing additional protection during the Pride March and Pride Week. The police improve their behavior during these events year after year. Relations that are established between activists and Belgrade police department for public order are decent. During Pride events, police units are placed not only in front of Pride organizers' headquarters but also in front of activists' residence places.⁶⁵ As much as these measures speak about the concern of the police with the safety of LGBTI individuals, they disturb privacy and speak about the non-satisfying safety of sexually diverse people.

„Be kind to him, he knows his rights! ”

The fact alone that someone who is an LGBTI activist and is reporting a case to the police makes the police react more kindly and in a more agile manner than if the violence is reported by an LGBTI person who is not an activist.⁶⁶ Police officers understand that, in such cases, respect for LGBTI rights is a very important part of their overall handling of the situation and that a mistake can be costly in different ways. This is not only because the police can be criticized by human rights organizations, but also because this can influence the advancement of the country towards the European Union, especially regarding criteria from Chapter 23. Additionally, police misconduct in dealing with LGBTI activists could cause a great deal of media attention that the police would prefer to avoid. Following, the police give “kind” advice to LGBTI activists “not to make public noise about it and calm down, because their public complaining can harm investigation”.⁶⁷

„I think police relations regarding me (and other activists) is not how they really treat members of the LGBTI community; they are aware that we know our rights and that we are ready to speak louder in public, that we are a noisy group, so they show some will to “help us”, but that is not how reality is.”⁶⁸

65 Data given by Boban Stojanović, former organizer of *Belgrade Pride March* who now resides in Canada via political asylum, in an interview held on March 13, 2017

66 Data given by Kristina Todorović, legal expert of *Yucom* in an interview held on December 21, 2016

67 Data given by Boban Stojanović, former organizer of *Belgrade Pride March* who now resides in Canada via political asylum, in an interview held on March 13, 2017

68 Ibid.

Police do not respect the article of the Criminal Code concerning crimes motivated by homophobia and transphobia

Crimes motivated by hate and prejudice against people of different sexual orientations and gender identities demand special attention by the police. These acts are based on hate and discrimination, and if not taken seriously enough, the consequences can be fatal. Additionally, those crimes are often more violent than the majority of criminal acts.⁶⁹

The European Union insists that hate crimes are a part of the criteria in Chapter 23 and that all crimes must be properly sanctioned. Changes in the Criminal Code from 2012 include hate motives for a crime as an aggravating circumstance applied during sentencing under Article 54a.⁷⁰ Nevertheless, the police do not consider this article up to this day.⁷¹ This is even more troubling when it is understood that hate motives are difficult to prove. This makes it important for police officers to properly understand and recognize homophobia and transphobia as motives so that they could react in an adequate manner.

Lack of recognition of hate motive in crimes regarding LGBTI population

When talking about the recognition of hate crimes against LGBTI individuals, the Belgrade police deal with such cases better than the police in other places in Serbia. This is primarily due to the better education of Belgrade police officers and the higher level of sensitisation among police officers and the staff of the Police Directorate.⁷² This was certainly improved by the fact that the Pride March is held in Belgrade and that it is secured by large number of police officers as well as that there are 3 officers for communication with the LGBTI population in Belgrade and 2 more will be appointed soon. Nevertheless, due to the lack of systematic will of the Ministry of Internal Affairs to deal with crimes motivated by homophobia and transphobia, proper reaction is in no small part up to the personal attitude and professionalism of the police officer individually.⁷³

69 *Manual for work with LGBTI people*, (Ministry of Internal Affairs, Belgrade: 2016.)

70 Article 54a of the Criminal Code (Official Publication of RS, no. 85/2005, 88/2005 - changed., 107/2005 - changed., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014) states as aggravating circumstance crimes not only motivated by hate based on sexual orientation and gender identity, but also race, religion, sex, nationality and ethnicity.

71 Data given by Vladimir Stojanov, Head of Police Department for Community Work of the Ministry of Internal Affairs in an interview held on March 27, 2017

72 Data given by Dragana Todorović, representative of ERA organization in an interview held on January 11, 2017

73 Data given by Kristina Todorović, legal expert in Yucom in an interview held on December 21, 2016

Although it was common during previous years that police officers denied protection and research of hate crimes against LGBTI population, at the present moment, that is very rare.⁷⁴ The problem today is the lack of recognition of homophobia and transphobia as motives. This is the challenge facing all police departments crossing all duties and jurisdictions and starting with general jurisdiction police officers. Failing to establish homophobia and transphobia as motives can have far-reaching consequences, first and foremost in court, where there would be no reliable way to sentence the perpetrator adequately.

There are two main reasons to not recognize and/or neglect homophobia and transphobia as crime motives. The first reason is lack of sensitization of police officers to recognize obvious evidence that a crime is motivated by hate and prejudice against LGBTI people. This leads to these cases being regarded as simple misconduct (disturbance of public order) rather than hate crimes. This is seen well in the case of attacks against four female members of the LGBTI population, one of whom was activist Dragoslava Barzut. During this incident, the attacker first shouted "Lesbians! Lesbians!" in a crowded spot, before physically attacking them. This was characterized by the police as a case of battery, although the statement of Dragoslava clearly shows that it was a crime motivated by hate.⁷⁵

Another reason is the lack of will among police officers to undertake all possible measures and collect evidence about homophobia and transphobia as motives for hate crime. It is the duty of the police to prevent, investigate, uncover and document all cases of violence based on hate towards LGBTI people. If it is to be trusted, police officers state that the system in which the prosecutor leads the investigation makes things more difficult for the police because they are just playing the role of "prosecutor's tools".⁷⁶ Namely, the public prosecutor in this system is the one giving orders to the police to take certain measures concerning the investigation of the crime and tracking of the suspects, so the police is obliged to act according to the public prosecutor's orders. It becomes a problem when, in this chain of command, the police do not gather all the data needed to investigate and prove the criminal act. Compounding this is the fact that the police have little regard for the victim's state of shock when making an initial statement about the events. It all climaxes in the point where sexual orientation or gender identity is not documented in police reports.⁷⁷ Thus, it is necessary for police officers to engage properly, to understand all circumstances of the event and to adequately gather the data that could be used as a guide in further investigation.

74 Stjelja I, Todorović D, *Hate crimes—Government organs processing attacks against LGBTI people in Serbia*, (Labris, Belgrade: 2014)

75 Data given by Dragoslava Barzut, activist of the association *Da se zna!* in an interview held on January 9, 2017, available on the website of *Da se zna!*: <http://bit.ly/2rc8oRC>

76 Data given by Vladimir Stojanov, Head of Police Department for Community Work of the Ministry of Internal Affairs in an interview held on March 27, 2017

77 More about it in research of police reports on attacks against LGBTI individuals. Only 4 out of 31 reports state sexual orientation as motive. Source: Stjelja I, Todorović D, *Hate crimes—Government organs processing attacks against LGBTI people in Serbia*, (Labris, Belgrade: 2014.)



Secondary victimization as a big problem in police conduct

If the police do not conduct themselves professionally, secondary victimization is often the consequence. It is the personal attitudes and prejudices of police officers regarding LGBTI people that makes victims feel threatened, re-traumatized and willing to give up further procedures of criminal investigation. There are many ways for the police to further harm the victim. Some include police being on the side of the suspects, making inappropriate comments or behaving in a way that could be considered inappropriate. In such cases, the victim is ignored and the victim's trauma depreciated, while police officers take the side of the attacker. The normalisation of violence is one of the strategies used by the police to further urge on the victim not to pursue justice by not pressing charges, telling the victim that it would not change anything. Unlawful police conduct is especially problematic in regards to transgender people, which is often seen through the insulting and harsh language they use with them. It is also not a rare case that a person is additionally victimized by being blackmailed by police officers, jailed without concern for their gender identity or treated in similar inhumane ways.⁷⁸

Police do not recognize domestic violence and partner violence against LGBTI people

Secondary victimization by police is mostly seen in cases of domestic and partner violence against LGBTI individuals. According to data by the *Gay Straight Alliance* for 2014, there has been an increase in domestic violence where LGBTI people are victims.⁷⁹ While processing these cases, police officers tend to neglect the fact that domestic violence regarding LGBTI people is an especially sensitive topic that demands additional police sensitivity. The staff of the police force is undertrained for recognition of this phenomenon. Thus, police officers often encourage victims to give up pressing charges because they find it inappropriate and immoral to sue members of one's own family. This makes documenting this criminal act impossible. A similar situation could be found in regard to violence in same-sex relationships. Research done in the field show that lesbians are most vulnerable to violence in relationships and in their families,⁸⁰

78 Đurić M, *Analysis of position of transgender people regarding human and other rights, (Gayten – LGBTI, Belgrade: 2013)* Available at: <http://www.transserbia.org/resursi/teorija/528-opis-polozaja-transpolnih-osoba-u-srbiji-u-vezi-sa-ostvarivanjem-licnih-i-drugih-prava-milan-djuric>

79 *Annual report on LGBT rights in Serbia, (Gay Straight Alliance, Belgrade: 2015)*

80 *Human Rights Campaign, Gender-Based Violence: Lesbian and Trans Women Face the Highest Risk But Get the Least Attention* <http://www.hrc.org/blog/gender-based-violence-lesbian-and-trans-women-face-the-highest-risk-but-get>, March 20, 2017.

All police officers in Poland get trained for cases of hate crimes

In total, 50,000 police officers across Poland have received to trainings regarding hate crimes initiated by the Minister of Internal Affairs of Poland. Representatives of LGBTI organizations participated in these trainings as lecturers, contributing the content with their expertise. This inclusion led to better cooperation between the police and vulnerable social groups.⁸¹

81 *Collecting data on hate crimes and monitoring mechanisms: Practical guide, (OEBS Mission in Serbia, Warsaw: 2014, page 45)*

but there is no available data on specific figures about violence against lesbians in Serbia. In the *Special protocol on procedures of police officers regarding violence against women, domestic violence and partner violence*⁸² there is no section regarding violence in same-sex relationships or violence against lesbians, although the new Law on Preventing Domestic Violence recognizes such cases.⁸³

Improvements needed in the way complaints are filed against police

If there was any misconduct in police work or if human and minority rights were hurt, every citizen could file a complaint about police work. The staff of the Ministry of Internal Affairs claim that they developed mechanisms of responsibility for non-professional behavior, including discrimination on any basis. Those mechanisms work via a complaint system, the Sector of Internal Control, under direct control of officers by their senior supervisors and line services.⁸⁴

No clear rules are set on how to file complaints against the police, resulting in a small number of citizens actually filing them. This is evident in that the European Commission Against Racism and Intolerance sees it as a problem that LGBTI people do not file complaints against police officers.⁸⁵ Additionally, the website of the Ministry of Internal Affairs shows no way how to file a complaint. It is not even visible in the part of website regarding the Office for Complaints. In such circumstances, it is not surprising that 90% of complaints result in the conclusion that there was no violations by police officers.⁸⁶ This evidence makes it impossible to sort out complaints regarding police officers' discriminatory and non-professional behavior regarding LGBTI people.

The Sector of Internal control works in a similar way as the system of complaints, and their report provides a view into criminal charges pressed against police officers. Nevertheless, there is no way to see whether there were violations by police officers regarding LGBTI people. This report deals with all kinds of police officers' unlawful acts but mostly regarding corruption, leaving little space to protection of human and minority rights and liberties and the use of police authorizations.

It is important to state that when police misconduct happens, the victim rarely thinks about complaining. For instance, in the last known case⁸⁷ of an attack against a transgender person in Belgrade, the victim did

82 *Special police protocol about procedures concerning violence against women, domestic violence and partner violence* available at: <http://www.sigurnakuca.net/upload/documents/PlaviTekst.pdf>

83 *Law on Prevention of Domestic Violence* (Official publication of Republic of Serbia, nr. 94/2016).

84 Ministry of Internal Affairs response to *Da se zna!* - questionnaire, April 6, 2017

85 *ECRI report on Serbia*, (European Commission against Racism and Intolerance, May 16, 2017)

Available at: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Serbia/SRB-CbC-V-2017-021-SRP.pdf>

86 Mandić S, et al, *Integrity assessment of Serbian police*, (Belgrade Center for Safety Policy, Belgrade: 2016)

87 See: http://dasezna.lgbt/case/DSZ_33/Fizi%C4%8Dki%20napad%20na%20trans%20%C5%BEenu%20u%20centru%20Beograda.html



Documenting domestic violence in LGBTI community

Police in Manchester apply the practice of documenting cases of domestic violence in LGBTI community with the goal of supporting and protecting all categories of victims. Cooperating with organizations dealing with domestic violence and LGBTI organizations police developed a special way of processing victims of domestic violence. Police officers were trained through a set of courses aiming to raise awareness on this topic and better understand the needs of LGBTI individuals who are victims of domestic violence.⁸⁸

88 Police of Manchester is first to record domestic violence against LGBTI people.

Available at: <http://www.pinknews.co.uk/2017/04/10/manchester-police-is-first-in-the-uk-to-officially-record-LGBTI-domestic-abuse/1.4.2017>.

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On association “Da se zna!”

Association *Da se zna!* is a group of activists gathered empower LGBTI persons to be actively involved in exercising their rights, through direct and indirect work with the LGBTTIQA community; advocacy and lobbying for an adequate reaction from the state authorities of the Republic of Serbia; and improving efficiency of state support and protection mechanisms in cases of violence and discrimination.

The main platform through which *Da se zna!* operates and enables anonymous and safe reporting of violence and discrimination towards LGBTI people is portal - www.dasezna.lgbt. This portal is not only a place where LGBTI people can safely report their cases, but also a hub of information for members of the community, where they can inform themselves about existing mechanisms of protection and other related legal, social and political issues.

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