

EU Values and BiH:

Addressing the “taboos” and changing prevailing attitudes in respect to sex (gender) identity, sexual orientation and people living with HIV

By
Gorana Mlinarevic

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Executive summary

This paper examines legal and institutional framework, as well as present Media and educational politics in BiH in terms of the gaps between where the country is and what the accession criteria are concerning human rights in the EU. Most discussion on discrimination in BiH is concerned with ethnicity and religion, but the issues of gender and sexual discrimination represent very important part of the EU accession criteria. As sooner as this is understood by the governmental officials and other relevant factors, closer the accession to EU will be.

The research methodology combines the content-analysis method applied to various pieces of legislation, communiqués and different NGO reports. I conducted the interviews with different actors in this complicated matter, some of those being activists working on the promotion of the rights of the targeted groups, prosecutors working on the cases of the domestic violence, NGO representatives and randomly selected 'ordinary' people.

Article 13 of the EC Treaty (TEC) implies that discrimination based on sex or sexual orientation may be grounds for EU action. Therefore, the pro-active vision of guaranteeing the human right to non-discrimination that looks further than the securing of equality on formal and legal levels only is required for any country wanting to become the member state. It is not enough for the state to just adopt the laws which would satisfy the formal criteria, but their successful implementation is necessary as well.

In Bosnia and Herzegovina discrimination is prohibited on the formal level. However, the implementation of the laws is lacking. The discriminations based and connected to the patriarchal norms of the society represent a deeply rooted and widely spread societal problem. Due to the deeply rooted patriarchal norms the discrimination based on gender or sexual orientation most of the time remains taboo.

In the Initial Report on the application of the International Covenant on Civil and Political Rights in Bosnia and Herzegovina for the period from 1994 to 2004, the Council of Ministers of Bosnia and Herzegovina in June 2005 under the item 40 (page 16) notices that, although a very present problem in Bosnia and Herzegovina, domestic violence is covered in the veil of secrecy and few talk about issue. The situation is even worse in respect to the taboo of violence directed against LGBTTIQ people or people living with HIV. Many people in BiH, and in particularly current power-holders, appear to feel threatened by those two social groups. The disapproval of the LGBTTIQ community and the stigmatization of people living with HIV are widely spread in Bosnia and Herzegovina.

Despite the fact that society continues to ignore domestic violence against women and hate crimes and violence against LGBTTIQ or people living with HIV, reports produced by non-governmental organizations (NGO) indicate a disturbing increase in the number of victims. Alarmingly, the state itself has not collected adequate data on either of those issues. There are some official statistics on the scope of the problem but they are not reliable. In respect to the domestic violence against women some more concrete data is available from the Ministries for Internal Affairs, while there were no official reports on the hate crimes and violence against LGBTTIQ and people living with HIV due to the fears of the members of the groups.

Considering the pace of changes and general interest of the ruling parties in the issue it could take another 15-20 years until the Laws in Bosnia and Herzegovina meet the EU standards in respect to non-discrimination. Furthermore, the improvement in implementation of laws is even worse, still only minor steps have been made in respect to really addressing the issues of non-discrimination. It is not enough to adopt the Law and expect it to be implemented by itself, but certain steps in promoting, and implementing of the Law need to be taken.

It is not enough to repeal the “century’s” long discriminatory laws. This can only be considered a first step in combating discrimination. The government needs to put in place broad ranging programs aimed at progressively reducing the level of chauvinism and homophobia in society and promoting the acceptance of successful women, LGBTTIQ people, and people living with HIV.