

Masha Durkalić

Conquering the right to assembly of LGBTI people in Bosnia and Herzegovina: Towards the first pride parade



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EXECUTIVE SUMMARY

Up until now, it has been challenging to speak about any standard policy practices when it comes to the freedom of assembly of lesbian/gay/bisexual/transgender/intersex (LGBTI) people in Bosnia and Herzegovina (BiH). Ahead of the first pride parade, announced for September 2019, this policy paper examines the reasons why a pride parade, as a particularly important form of advocacy for LGBTI rights, attained through the right to assembly, has not yet taken place in BiH. It also reflects on the examples of assembly which took place in the past, as well as on their results, ultimately offering the arguments as to why a pride parade would be a game-changer when it comes to the rights of the LGBTI community, and makes recommendations to stakeholders on how to help this process along. The Constitutional Court of BiH gave two landmark verdicts¹ stating that homophobic and transphobic violence that took place at the 2008 Queer Sarajevo Festival and 2014 Merlinka Festival violated the right to assembly of LGBTI people. Recommendations on making sure the first pride parade is held peacefully and without obstruction are focused on ensuring the safety of the pride parade and creating an atmosphere in which the public opinion will be free of hate speech aimed at LGBTI people. The police structures of Canton Sarajevo and Federation of BiH should work together to ensure the parade is held without incidents. The media should uphold the highest standards of professionalism and ethics when reporting about the first pride parade in BiH and refuse media space to homophobic and fascist views. The political parties should demonstrate their willingness to respect all human rights, as their statutes claim, and refrain from hate speech and homophobia. Civil society organisations and relevant human rights institutions should continue to support the first pride parade and to bring its importance to the attention of the public, while international stakeholders should continue to pressure the responsible authorities to protect the pride parade in line with the law. United efforts in this direction would make sure that the first pride parade in BiH is held without violence, hate speech and obstruction, thereby signalling a new era of protection of LGBTI rights in this country.

1 Constitutional Court of Bosnia and Herzegovina, 'Odluka o dopustivosti i meritumu' [Decision on admissibility and meritum], n AP 1020/11, (25 September 2014), available at <http://www.ustavnisud.ba/dokumenti/_bs/AP-1020-11-691933.pdf> accessed 21 March 2019; Constitutional Court of Bosnia and Herzegovina, 'Odluka o dopustivosti i meritumu' [Decision on admissibility and meritum], n AP 4319/16, (19 December 2018), available at <<http://www.ustavnisud.ba/dokumenti/AP-4319-16-1169789.pdf>> accessed 21 March 2019.

INTRODUCTION

The freedom of assembly, as a fundamental human right, has a track record of being difficult to obtain, especially for minority groups that struggle for recognition and equality. By now, at least in the majority of the Western world, the right to assembly of LGBTI people is mostly demonstrated with pride parades, regular yearly events that serve to gather the community and point out the most important issues concerning the state of LGBTI human rights. Up until now, BiH has been one of the two countries in South East Europe where a pride parade has not been held.² However, on 1 April 2019, a group of activists from Sarajevo, Banja Luka, Tuzla, Prijedor, Bijeljina and other cities announced that the first pride parade in BiH will be held on 8 September 2019 in Sarajevo.³ This announcement was welcomed by the civil society and open-minded public as something that was long-time coming, but at the same time condemned by conservative religious and political circles, who think the pride parade endangers the traditional values of the BiH society. The announcement came six months before the actual event, which provides time for activists to prepare for this extremely important step, which will surely be fundamental for the attainment of right to assembly of LGBTI people in BiH. However, this also gives time to adversaries to mobilise and create strategies which would prevent the first pride parade in BiH from taking place, taking into account that it is a country with a demonstrated track record of homophobia and obstructions related to LGBTI rights.

According to the latest edition of ILGA-Europe's Rainbow Europe Map for 2018,⁴ which documents the political, legal and social developments that concern LGBTI people since 2011,

BiH falls under the category of countries where LGBTI people experience an abundance of homophobia and hate speech. Bosnia and Herzegovina scored only 31% on achieved LGBTI human rights,⁵ with no progress made since last year, as compared to neighbouring Croatia's score of 51%, which is the highest in the region.

Public events that support and/or highlight LGBTI rights have been held in BiH more often in recent years. However, the circumstances that shaped the public opinion about the LGBTI community in the past ten years resulted in a development of a specific form of LGBTI activism. There was no pride parade, but activists produced cleverly shaped initiatives with the goal to reach the wider public and increase the freedom of assembly of LGBTI people. Activists and supporters organised small gatherings, marches and/or cultural events and focused their advocacy activities at institutions. All of these activities have been building up to create circumstances in which LGBTI activists are becoming bolder in their claims for the freedom of assembly. That said, moving up to the final step – the pride parade – should be a crucial part of this process, one that would guarantee both visibility of the LGBTI community and demonstrate the country's commitment to supporting the rights of LGBTI people and their equal treatment in BiH. It seems that the latest announcement of the activists serves as proof of this development.

Unfortunately, commitment by the state to ensure the safety of activists and participants of such events was not demonstrated in the past, resulting in a lack of trust in state institutions to protect the LGBTI community. This created a situation that is hard to overcome, particularly when we take into account factors such as stagnation in political protest that is also characteristic of the country,⁶ the increasing brain drain and

2 Pride parades are held in Croatia, Serbia, Montenegro, Albania, and Kosovo, with Croatia pioneering the practice in 2002. In North Macedonia, before the announced March for Tolerance in 2012, activists were attacked. Since then, there have been no attempts to organise a parade.

3 Povorkaponosa.ba, 'Bosna i Hercegovina konačno dobija povorku ponosa' [Bosnia and Herzegovina finally gets its pride parade] (*Povorkaponosa.ba*, 31 March 2019) <<http://povorkaponosa.ba/2019/03/31/bosna-i-hercegovina-konacno-dobija-povorku-ponosa/>> accessed 1 April 2019.

4 ILGA-Europe, 'Rainbow Europe Map 2018' (*ILGA-Europe*, 2018) <<https://rainbow-europe.org/>> accessed 21 March 2019.

5 Ibid ch on Bosnia and Herzegovina <<https://rainbow-europe.org/#8625/0/0>> accessed 21 March 2019.

6 Since the February 2014 protests, which initiated the creation of citizen plenums, and subsequently failed in their re-

the long-lasting political deadlock.⁷ Due to these circumstances, it seems a pride parade is needed more than ever, as such an event would break the vicious circle of fear and lack of trust in the state authorities, and would also be a test for the state to stand up against discrimination and violence aimed at LGBTI people. The state authorities now have a chance to prove that violence towards LGBTI people will not be tolerated and that their right to assembly will be guaranteed.

This policy paper examines the reasons why a pride parade, as a particularly important form of advocacy for LGBTI rights, attained through the right to assembly, has not yet taken place in BiH, and what brought on its announced inception in September 2019. It also reflects on the examples of assembly which took place in the past, as well as on their results, ultimately offering the arguments as to why a pride parade would be a game-changer when it comes to the rights of the LGBTI community in BiH, and recommendations to the most important stakeholders on how to ensure that rights of LGBTI people, as one of the most vulnerable and marginalised social groups in BiH, are respected.

PROBLEM DESCRIPTION

For the past ten years, the right to assembly of LGBTI people in BiH has been almost impossible to obtain. Since the incident at the opening of Queer Sarajevo Festival (QSF) in September 2008, the LGBTI community has closed its ranks and rarely and reluctantly pursued its rights to assembly. QSF was supposed to be the first public event by and for LGBTI people, but

violent attacks of football hooligans and members of the Muslim Salafi community aimed at the festival's participants put an end to the festival immediately.⁸ The atmosphere of this event has been hovering over the LGBTI community in BiH, always serving as a reminder that at a time when the right to assembly was sought, the state made crucial mistakes which shaped the future of the LGBTI community's behaviour and attitudes towards freedom of assembly. What the state did not do in the past is easily transferred to the present and it is often believed the outcomes would be the same. The authorities of Canton Sarajevo and Federation of BiH, who were, by law, responsible for making sure that the event was held without obstruction, did not provide the proper conditions for the QSF to be held, and then failed to protect the festival's participants, after the astonishing amount of homophobia and violence exhibited before the festival took place, as well as on its opening night. Since then, the road towards freedom of assembly has been long, difficult and often obstructed by a variety of stakeholders – political elites, media and religious figures. After ten years, the QSF is often referenced in discussions about public events which would finally place the LGBTI community outside of its 'four walls', where the public opinion usually instructs them to stay. It has also been referenced to again by a variety of comments on web portals and social media⁹ after the announcement of the first pride parade.

The lack of more vocal requests for freedom of assembly of LGBTI people can also be viewed in the light of the phenomenon of decreased

quests, resulting with a return to *status quo*, citizen protests have been isolated and rarely fruitful events.

- 7 For the past two decades, the political elites belonging to three constitutional peoples of BiH have been misusing the complicated political structures and actively obstructing any possibility for the country to advance on its path towards the European Union, thereby keeping it in a political deadlock that continues to impoverish the country. See more in an insightful analysis of the results of the last general elections in BiH: Alfredo Sasso, 'Post-elections in Bosnia and Herzegovina: heavy politics' (*Osservatorio Balcani e Caucaso Transeuropa*, 12 November 2018) <www.balcanicaucaso.org/eng/Areas/Bosnia-Herzegovina/Post-elections-in-Bosnia-and-Herzegovina-heavy-politics-190509> accessed 13 April 2019.
- 8 Saša Gavrić, 'LGBT i Queer aktivizam u Bosni i Hercegovini' in Saša Gavrić, Lejla Huremović and Marija Savić (eds), *Čitanka lezbejskih i gej ljudskih prava* (Sarajevski otvoreni centar, Fondacija Heinrich Boell 2011) 111-116 <http://soc.ba/site/wp-content/uploads/2011/12/Citanka-lezbejskih-i-gej-ljudskih-prava_FINAL.pdf> accessed 21 March 2019.
- 9 The news of the pride parade was accompanied by homophobic hate speech in the comments section of articles published on the most popular web news portal in BiH, Klix.ba. Additionally, many social media posts were targeted with hate speech by Facebook and Twitter users. The atmosphere of online hate speech has not dissipated weeks after the announcement of the parade.

civic participation that is characteristic for BiH, where a number of protests over the years started with a significant swing, but soon faded into the background of the social and political frustration.¹⁰ In this atmosphere, it is not surprising that initiatives which would increase the freedom of assembly of LGBTI people are failing to appear, as it seems all social groups and initiatives, which would perhaps claim their rights publicly and openly, are discouraged in their attempts to do so. The LGBTI community is no exception to that rule.

However, the past ten years brought changes when it comes to freedom of assembly – small, but significant – which are paving the way to the fulfilment of this right and increasing the public acceptance of the LGBTI community. Dedicated, ongoing and ambitious advocacy activities by several civil society organisations have resulted in freedom of assembly being slowly, but surely, conquered by movie festivals, marches and/or community gatherings. Additionally, members of the LGBTI community are more forthcoming when it comes to speaking about their lives to the media. This is proof that a change of attitude has occurred within the LGBTI community and might be signifying that the time has come to claim the right to the freedom of assembly more boldly, which the recent announcement of the first pride parade also demonstrates. Sarajevo Open Center (SOC), a civil society organisation that is at the forefront of advocacy for LGBTI rights in BiH, organises community gatherings which serve as an opportunity to strengthen the ties and acquire education on how to fight for rights. As a result, the community is dedicated more to acquiring the right to assembly and it seems now is the time to discuss what the next steps on this path could be, with the announced pride parade being the first one.

RATIONALE FOR ACTION

The incident of the QSF prevented the LGBT community from publicly advocating for its rights through political protest. Even though this provided the LGBTI community with some leverage in the process of advocating their rights, the pride parade, as the umbrella political protest that serves as a guarantee of protection of LGBTI rights because of its immensely important dimension of public visibility, remained unattainable – up until now. The fear that has been terrorising the community for years, whether silently through society's homophobia that served as a stop sign for anyone who wanted to express their sexual orientation and/or gender identity, or openly through homophobic attacks (many of them not reported), is not imagined. Only several days after the announcement about the parade, a homophobic attack took place in the centre of Sarajevo.¹¹ Two women, members of the LGBTI community, were attacked in broad daylight by two men, who were later arrested. One of the attackers had threatened the women a couple of days before.

It is important to reflect on the steps made towards attaining the right to assembly of LGBTI people in BiH and its first pride parade. These examples clearly show that the community is making the necessary steps to claim its position in society, one that has been unjustly neglected for the past ten years. The International Film Festival Merlinka has been taking place in Sarajevo and Tuzla for the past seven and five years, respectively. When the festival was first held in 2013 in Sarajevo, it was a small gathering that reconnected activists and members of the community. A year later, in February 2014, activists were attacked during a panel discussion when 14 young masked men stormed the venue in the art cinema Kriterion, attacked the participants

10 The 'protest wave' in Bosnia and Herzegovina started with the 'Bebolucija' or JMBG protests in June 2013, a movement which demanded unique personal citizen numbers (JMBGs). In February 2014, protests focused on labour rights and social justice occurred in several cities of the Federation of BiH, but failed to produce fulfillment of requests. This amplified the already low culture of protesting, which was briefly revived with the 2018 'Justice for David' movement in the entity Republic of Srpska, which was also soon repressed by the authorities.

11 Klix.ba, 'U Sarajevu napadnute dvije pripadnice LGBT populacije, policija traga za napadačima' [Two members of LGBTI population attacked in Sarajevo, police are looking for the attackers] (*Klix.ba*, 5 April 2019) <www.klix.ba/vijesti/crna-hronika/u-sarajevu-napadnute-dvije-pripadnice-lgbt-populacije-policija-traga-za-napadacima/190405102> accessed 5 April 2019.

and injured two people.¹² The police were 30 minutes late to the announced event, which provided an opportunity for the attack to take place. The perpetrators were never prosecuted.¹³ However, the festival continued the next day with a strong support from the civil society sector.

In October 2016, a street performance was held in front of BBI Center in Sarajevo, titled *Our lives exist outside four walls*,¹⁴ when activists held messages pointing to the need to recognise LGBTI people and their rights. The performance was held without incidents, representing a step forward in the public space. In 2016, Sarajevo saw its first unofficial pride, the so called *zero pride* – a walk on the coast of the river Miljacka that a small group of activists spontaneously engaged in after a gathering in front of the nearby Parliament of Federation of BiH to mark IDA-HOT.¹⁵ The statement issued by SOC said, ‘We were joined by friends and associates. Some already called our spontaneous walk the pride zero in Bosnia and Herzegovina. Rainbow flags were flying. There weren’t a lot of steps there, but it was an important few minutes’.¹⁶

However, only a year later, the situation regarding freedom of assembly changed. In May 2017, around 200 activists protested¹⁷ in front of the Canton Sarajevo government to highlight how administrative silence by the Ministry of Transport of Canton Sarajevo led to the cancellation of a march that was supposed to highlight the problem of rising violence against LGBTI people. Although the request for a permit was submitted a month before the march, the Ministry of Transport provided the permit too late.¹⁸ The Ombudsmen of BiH¹⁹ subsequently stated that the Ministry of Transport ‘violated the right to peaceful assembly’ by using ‘passiveness and administrative silence’.²⁰

In May 2018, SOC’s attempt to mark 31 March, International Transgender Day of Visibility, with a symbolic gathering on BBI Center’s and National Theater of BiH’s plateaus²¹ was declined. The arguments were similar: BBI Center did not want to take part in ‘socially unacceptable and immoral behavior’,²² while the National Theater of BiH argued that the building is a ‘national monument’ and that events which

12 ILGA-Europe (n 4).

13 Amnesty International, *Amnesty International Report 2018/2019. The State of the World’s Human Rights*, (Amnesty International 2018) ch on Bosnia and Herzegovina 95-96 <www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF> accessed 21 March 2019.

14 LGBTI.ba, ‘Naši životi postoje i izvan četiri zida, jer ovo su i naše ulice!’ [Our lives exist outside four walls, because these are our streets as well!] (*LGBTI.ba*, 26 October 2016) <<http://lgbti.ba/nasi-zivoti-postoje-i-izvan-cetiri-zida-jer-ovo-su-i-nase-ulice/>> accessed 21 March 2019.

15 International Day Against Homophobia, Transphobia and Biphobia.

16 LGBTI.ba, ‘U maju za ravnopravnost LGBTI osoba’ [May for equality of LGBTI people] (*LGBTI.ba*, 18 May 2016) <<http://lgbti.ba/u-maju-za-ravnopravnosti-lgbti-osoba/>> accessed 21 March 2019.

17 Azem Kurtić, ‘Valter je branio Sarajevo od fašista, ne od nas’ [Valter was defending Sarajevo against fascists, not against us] (*LGBTI.ba*, 14 May 2017) <<http://lgbti.ba/valter-je-branio-sarajevo-od-fasista-a-ne-od-nas/>> accessed 21 March 2019.

18 Vasić Vladana and others (eds), ‘Rozi izvještaj 2018. Godišnji izvještaj o stanju prava LGBTI osoba u Bosni i Hercegovini’ (Sarajevski otvoreni centar 2018) 27 <<http://soc.ba/site/wp-content/uploads/2018/05/Rozi-izvjestaj-2018.pdf>> accessed 21 March 2019.

19 Institucija ombudsmena/ombudsmana za ljudska prava Bosne i Hercegovine, ‘Godišnji izvještaj o rezultatima aktivnosti Institucije ombudsmana za ljudska prava Bosne i Hercegovine za 2017. godinu’ (Institucija ombudsmena/ombudsmana za ljudska prava Bosne i Hercegovine 2018) 103 <www.ombudsmen.gov.ba/documents/obmudsmen_doc-2018030810344228bos.pdf> accessed 30 March 2019.

20 Institucija ombudsmena/ombudsmana za ljudska prava Bosne i Hercegovine, ‘Preporuka u vezi sa žalbom Sarajevskog otvorenog centra’ [Recommendation regarding the complaint of Sarajevo Open Center] (Institucija ombudsmena/ombudsmana za ljudska prava Bosne i Hercegovine 2017) <<http://soc.ba/site/wp-content/uploads/2017/08/Preporuka-Institucije-ombudsmena-u-vezi-s-mars%CC%8Cem-od-13.05.2017.pdf>> accessed 30 March 2019.

21 Vasić and others (n 18) 28-29.

22 LGBTI.ba, ‘BBI Centar tvrdi da su kompanije unutar njegovog centra protiv okupljanja LGBTI osoba?’ [BBI Center claims that its companies are against assembly of LGBTI people?] (*LGBTI.ba*, 24 May 2018) <<http://lgbti.ba/bbi-centar-tvrdi-da-su-kompanije-unutar-njegovog-centra-protiv-okupljanja-lgbti-osoba/>> accessed 21 March 2019.

foresee special security measures cannot be endorsed.²³ SOC claimed the use of these public spaces should not be decided on by institutions and legal entities that do not have authority over them nor are eligible to assess the risk associated with these gatherings,²⁴ and pointed out that this should be the responsibility of Canton Sarajevo, primarily its Ministry of Internal Affairs. The tendency to discriminate against several types of assemblies has been noted by the report of Civil Rights Defenders on the freedom of assembly, which notes that this discrimination was more apparent in 2017 and 2018, and was reflected in assemblies organised by women and LGBTI people.²⁵

In October 2018, activists marked the 10th anniversary of the QSF with a symbolic walk from the Academy of Arts, where the festival was supposed to be held, along the coast of Miljacka, to the art cinema Kriterion.²⁶ Around 50 activists who participated in the walk were escorted by police and employees of a private security company.

It is important to note that the efforts of activists to exercise the freedom of assembly has been confirmed twice by the Constitutional Court of Bosnia and Herzegovina. In September 2014, the Constitutional Court ruled²⁷ that the right of LGBTI people to assembly was violated in 2008, in the aftermath of the QSF. This was the first LGBTI-related ruling in Bosnia and Herzegovina. In December 2018, the second ruling²⁸ by the Constitutional Court stated that the gov-

ernment of Canton Sarajevo violated the right to assembly of LGBTI people by failing to secure the safety of Merlinka Festival's participants in 2014, allowing for homophobic and transphobic violence to take place. The second verdict was the first one ever related to the accountability of public officials in relation the freedom of peaceful assembly in BiH.²⁹

The announcement of the upcoming pride parade created a strong momentum for action. It is true that organising a pride parade will require more courage and risk on the part of the LGBTI community, and would serve as a 'leap of faith' that can have both good and bad effects. However, it is becoming apparent, within the civil society sector, the LGBTI community, and the broader public, that this 'leap of faith' needs to be taken in order to produce an overarching step 'out of the closet' for the whole LGBTI community in BiH.

POLICY OPTIONS/SCENARIOS

The LGBTI community and activists tried different strategies in order to ensure visibility and respect of their rights in the past. With the announcement of the first planned parade, it becomes clear they are ready to step out of the metaphorical 'four walls' they have been confined in for years. Making sure this pride parade is held without incidents will be the ultimate test for the authorities, which will demonstrate their willingness to ensure that the right to assembly

23 LGBTI.ba, 'Sarajevski otvoreni centar: Ko i kako odlučuje o slobodi okupljanja građana/ki Kantona Sarajevo?' [Who and in which way decides about the freedom of assembly of Canton Sarajevo citizens?] (*LGBTI.ba*, 28 March 2018) <<http://lgbti.ba/sarajevski-otvoreni-centar-ko-i-kako-odlucuje-o-slobodi-okupljanja-gradjana-ki-kantona-sarajevo/>> accessed 21 March 2019.

24 Vasić and others (n 18) 29.

25 Ena Bavčić, 'Monitoring the Right to Free Assembly' (The European Center for Not-for-Profit Law and Office Civil Rights Defenders in Bosnia and Herzegovina 2019) 8 <http://ecnl.org/wp-content/uploads/2019/02/BosniaHerzegovina_Monitoring-assembly-report-2018.pdf?fbclid=IwAR2tqUHD5UUeGva89n2bDgqpTZFb7OWdyCiRTm9ZSHM-L2Jqo8qVwf4APGg> accessed 13 April 2019.

26 Mirza Halilčević, '10 godina poslije QSF-a: Šetamo, dakle postojimo' [10 years after QSF: We walk, therefore we exist] (*LGBTI.ba*, 1 October 2018) <<http://lgbti.ba/10-godina-poslije-qsf-a-setamo-dakle-postojimo/>> accessed 21 March 2019.

27 Constitutional Court of Bosnia and Herzegovina, 'Odluka o dopustivosti i meritumu' [Decision on admissibility and meritum], n AP 1020/11, (25 September 2014) (n 1)

28 Constitutional Court of Bosnia and Herzegovina, 'Odluka o dopustivosti i meritumu' [Decision on admissibility and meritum], n AP 4319/16, (19 December 2018) (n 1)

29 Bavčić (n 25) 6.

of LGBTI people is respected. It will also serve as an additional demonstration of the country's willingness to observe its obligations related to international human rights law and its prospective accession to the European Union (EU).

Up until now, it had been challenging to speak about any standard policy practices when it comes to freedom of assembly of LGBTI people in BiH, as these attempts would be feigned by third parties who strongly opposed the activities of LGBTI people; the activists themselves would take measures to protect their events, by working with the police and private security companies; or the events simply would not take place because of practices such as administrative silence, which were executed directly by the authorities in charge. BiH has a set of anti-discrimination laws that are considered to be good but poorly implemented. These laws, combined with laws on freedom of assembly, should also ensure the right to assembly of LGBTI people.

The previously listed examples show how some of these attempts either failed or were not effective enough, because the authorities did not invest enough effort or determination in providing an action plan which would guarantee that LGBTI people will be free to assemble, without difficulties. Therefore, the proposed policy scenario can be only one – which is *to ensure, inevitably and without hesitation, that the first pride parade in Bosnia and Herzegovina takes place without incidents, and in line with all relevant laws and regulations*. Apart from securing the safety of participants at the pride parade,

the authorities need to show their dedication by preventing and sanctioning hate speech from the public, the political elites (which has already happened),³⁰ the media and clerics. The scenario of QSF should not be allowed to happen again, as it is certain that a recurrence of such an event would have dire consequences on the willingness of the LGBTI community to exercise their freedom of assembly in BiH, but also on their feelings of safety, acceptance and tolerance in this country.

POLICY RECOMMENDATIONS

In the complicated administrative and legal constellation of BiH, the *freedom of assembly* is regulated by 12 laws in the two entities and one district, and the laws are implemented under 12 ministries of internal affairs.³¹ The right is guaranteed by the Constitution of BiH, the constitutions of the entities and cantons, and the Statute of Brčko District,³² but also by relevant international human rights law documents ratified by BiH, primarily the Universal Declaration of Human Rights³³ and the European Convention for the Protection of Human Rights and Fundamental Freedoms. All public gatherings should be held in line with these laws, but can be restricted in order to protect the constitutional order, public health, as well as the freedom and rights of others, including 'public morality' in Republika Srpska (RS).³⁴ There is no overseeing mechanism that would ensure a harmonised implementation of this right; some laws are

30 Since the announcement of the pride parade, the Canton Sarajevo board of the most prominent Bosniak party SDA (currently in opposition in the Canton Sarajevo government) has issued a press release, saying that it would be better if the pride parade was not organised as it would 'deepen the gap between people of different opinions'. The representative of this party in Canton Sarajevo Assembly, Samra Čosović-Hajdarević, stated that LGBTI people 'should be isolated'. On the other side, affirmative reactions came from more liberal political parties, such as Naša stranka (currently leading the government of Canton Sarajevo) and SDPBiH (The Social-Democratic Party of BiH). An overview of reactions is provided in this analysis: Mirza Halilčević, 'Nakon najavljene prve povorke ponosa u BiH: Retrospektiva i pregled reakcija' [After the announcement of the first pride parade in BiH: Retrospective and overview of reactions] (*LGBTI.ba*, 7 April 2019) <<http://lgbti.ba/nakon-najavljene-prve-povorke-ponosa-u-bih-retrospektiva-i-pregled-reakcija/>> accessed 10 April 2019.

31 European Center for Not-for-Profit Law and Civil Rights Defenders, 'Freedom of Assembly in Bosnia and Herzegovina' (European Center for Not-for-Profit Law and Civil Rights Defenders 2016) 3 <http://ecnl.org/wp-content/uploads/2016/07/BiH_WBA-Project-Report-July8.pdf> accessed 13 April 2019.

32 Vasić and others (n 18) 27.

33 Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III).

34 Vasić and others (n 18) 8.

vague; some provisions are not in line with international standards; which creates space for misinterpretation of the right and poor implementation.³⁵

Two verdicts by the Constitutional Court of BiH prove that the right to assembly of LGBTI people has been violated in the past. Recommendations on making sure the first pride parade is held peacefully and without obstruction are focused on ensuring the safety of the pride parade, and creating an atmosphere in which the public opinion will be free of hate speech aimed at LGBTI people.

The police structures have to ensure public peace and order during the assemblies at all administrative units in BiH,³⁶ including the upcoming pride parade. The ministries of internal affairs review the registrations of assemblies, while the police reviews the security circumstances and notifies the organisers about necessary security procedures, and, if necessary, terminates assemblies.³⁷ The government of Canton Sarajevo is responsible for ensuring the security of this event, specifically the Ministry of Internal Affairs and the Ministry of Transport. Along with the Government of the Federation of BiH, and the Federal Ministry of Internal Affairs, these institutions should collaborate to make sure that the event is secured in line with relevant laws on the freedom of assembly (primarily the Law on Public Gathering of Canton Sarajevo), the Constitution of BiH, and all relevant human rights documents signed and ratified by BiH. The police should closely follow the groups that in the past have demonstrated hostility towards LGBTI people (such as football hooligans and members of the ultra-conservative Muslim Salafi community), in order to act in time and prevent violence. The authorities responsible should also monitor hate speech online and arrest those engaging in it.³⁸

The media should uphold the highest stan-

dards of professionalism and ethics when it comes to reporting about a sensitive topic such as the first pride parade in BiH and refuse media space to homophobic and fascist perspectives. Institutions such as the Press Council of BiH and Communications Regulatory Agency (RAK BiH) have a particularly high responsibility in this regard.

The political parties should uphold their statutes that claim all human rights are equal and demonstrate their willingness to respect these claims, refraining from hate speech and homophobia that are being justified by 'traditional values'. Members of political parties should not misuse this topic as a tool for political bickering, but recognise the importance of this event as an improvement towards a state in which human rights are respected.

Civil society organisations and relevant human rights institutions (such as the Institution of Human Rights Ombudsman of BiH) should continue to support the first pride parade, and to bring its importance to the attention of the public.

International stakeholders (Delegation of the EU in BiH, EU Special Representative, foreign embassies, the Office of the High Representative, and the Organization for Security and Cooperation in Europe) should continue to provide support to the LGBTI community and pressure the authorities responsible to protect the pride parade in line with the laws. A pride parade with no incidents would increase the country's reputation among international stakeholders and there is no better way to endorse this idea than through the influence of international stakeholders themselves.

35 Ibid 3.

36 Ibid.

37 Ibid 13.

38 First arrests on the charges of online hate speech were made recently. See more at Klix.ba, 'Za pet dana u BiH uhapšene tri osobe zbog govora mržnje na internetu' [In five days three persons arrested in BiH for hate speech on the internet] (Klix.ba, 9 April 2019) <www.klix.ba/vijesti/bih/za-pet-dana-u-bih-uhapsene-tri-osobe-zbog-govora-mrznje-na-internetu/190409070> accessed 13 April 2019.

REFERENCES

- Amnesty International, *Amnesty International Report 2018/2019. The State of the World's Human Rights* (Amnesty International 2018) ch on Bosnia and Herzegovina 95-96 <www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF> accessed 21 March 2019
- Bavčić E, 'Monitoring the Right to Free Assembly' (The European Center for Not-for-Profit Law and Office Civil Rights Defenders in Bosnia and Herzegovina 2019) 6, 8 <http://ecnl.org/wp-content/uploads/2019/02/BosniaHerzegovina_Monitoring-assembly-report-2018.pdf?fbclid=IwAR2tqUHd-D5UUeGva89n2bDgqpTZFb7OWdyciRTm9ZSHM-L2Jqo8qVwf4APGg> accessed 13 April 2019
- Constitutional Court of Bosnia and Herzegovina, 'Odluka o dopustivosti i meritumu' [Decision on admissibility and meritum], n AP 1020/11, (25 September 2014), available at <http://www.ustavnisud.ba/dokumenti/_bs/AP-1020-11-691933.pdf> accessed 21 March 2019
- Constitutional Court of Bosnia and Herzegovina, 'Odluka o dopustivosti i meritumu' [Decision on admissibility and meritum], n AP 4319/16, (19 December 2018), available at <<http://www.ustavnisud.ba/dokumenti/AP-4319-16-1169789.pdf>> accessed 21 March 2019
- Delegation of the European Union to Bosnia and Herzegovina & European Union Special Representative in Bosnia and Herzegovina, 'Statement by the Delegation of the EU to BiH and the EU Special Representative in BiH on draft amendments to the RS Law on Public Peace and Order' (11 April 2019) <<http://europa.ba/?p=62871>> accessed 13 April 2019
- European Center for Not-for-Profit Law and Civil Rights Defenders, 'Freedom of Assembly in Bosnia and Herzegovina' (European Center for Not-for-Profit Law and Civil Rights Defenders 2016) 3 <http://ecnl.org/wp-content/uploads/2016/07/BiH_WBA-Project-Report-July8.pdf> accessed 13 April 2019
- Gavrić S, 'LGBT i Queer aktivizam u Bosni i Hercegovini' in Gavrić S, Huremović L and Savić M (eds), *Čitanka lezbejskih i gej ljudskih prava* (Sarajevski otvoreni centar, Fondacija Heinrich Boell 2011) 111-116 <http://soc.ba/site/wp-content/uploads/2011/12/Citanka-lezbejskih-i-gej-ljudskih-prava_FINAL.pdf> accessed 21 March 2019
- Halilčević M, '10 godina poslije QSF-a: Šetamo, dakle postojimo' [10 years after QSF: We walk, therefore we exist] (*LGBTI.ba*, 1 October 2018) <<http://lgbti.ba/10-godina-poslije-qsf-a-setamo-dakle-postojimo/>> accessed 21 March 2019
- 'Nakon najavljene prve povorke ponosa u BiH: Retrospektiva i pregled reakcija' [After the announcement of the first pride parade in BiH: Retrospective and overview of reactions]. (*LGBTI.ba*, 7 April 2019) <<http://lgbti.ba/nakon-najavljene-prve-povorke-ponosa-u-bih-retrospektiva-i-pregled-reakcija/>> accessed 10 April 2019
- ILGA-Europe, 'Rainbow Europe Map 2018' (*ILGA-Europe*, 2018) ch on Bosnia and Herzegovina <<https://rainbow-europe.org/>> accessed 21 March 2019
- Institucija ombudsmena/ombudsmana za ljudska prava Bosne i Hercegovine [The Institution of Human Rights Ombudsman in BiH], 'Preporuka u vezi sa žalbom Sarajevskog otvorenog centra' [Recommendation regarding the complaint of Sarajevo Open Center] (Institucija ombudsmena/ombudsmana za ljudska prava Bosne i Hercegovine [The Institution of Human Rights Ombudsman in BiH], 2017) <<http://soc.ba/site/wp-content/uploads/2017/08/Preporuka-Institucije-ombudsmena-u-vezi-s-mars%CC%8Cem-od-13.05.2017..pdf>> accessed 30 March 2019
- 'Godišnji izvještaj o rezultatima aktivnosti Institucije ombudsmena za ljudska prava Bosne i Hercegovine za 2017. godinu' (Institucija ombudsmena/ombudsmana za ljudska prava Bosne i Hercegovine [The Institution of Human Rights Ombudsman in BiH], 2018) <www.ombudsmen.gov.ba/documents/obudsmen_doc2018030810344228bos.pdf> accessed 30 March 2019
- Klix.ba, 'U Sarajevu napadnute dvije pripadnice LGBT populacije, policija traga za napadačima' [Two members of LGBTI population attacked in Sarajevo, police is looking for the attackers] (*Klix.ba*, 5 April 2019) <<https://www.klix.ba/vijesti/crna-hronika/u-sarajevu-napadnute-dvije-pripadnice-lgbt-populacije-policija-traga-za-napadacima/190405102>> accessed 5 April 2019
- 'Za pet dana u BiH uhapšene tri osobe zbog govora mržnje na internetu' [In five days three persons arrested in BiH for hate speech on the internet] (*Klix.ba*, 9 April 2019) <www.klix.ba/vijesti/bih/za-pet-dana-u-bih-uhapsene-tri-osobe-zbog-govora-mrznje-na-internetu/190409070> accessed 13 April 2019

- Kurtić A, 'Valter je branio Sarajevo od fašista, ne od nas' [Valter was defending Sarajevo against fascists, not against us] (*LGBTI.ba*, 14 May 2017) <<http://lgbti.ba/valter-je-branio-sarajevo-od-fasista-a-ne-od-nas/>> accessed 21 March 2019
- LGBTI.ba, 'Ustavni sud donio odluku u vezi Queer Sarajevo Festivala: Narušeno pravo LGBT osoba na javno okupljanje' [Constitutional court makes a decision about Queer Sarajevo Festival: The right to public assembly of LGBT people was violated] (*LGBTI.ba*, 2 October 2014) <<http://lgbti.ba/ustavni-sud-donio-odluku-u-vezi-queer-sarajevo-festivala-naruseno-pravo-lgbt-osoba-na-javno-okupljanje/>> accessed 21 March 2019
- 'U maju za ravnopravnost LGBTI osoba' [May for equality of LGBTI people] (*LGBTI.ba*, 18 May 2016) <<http://lgbti.ba/u-maju-za-ravnopravnosti-lgbti-osoba/>> accessed 21 March 2019
- 'Naši životi postoje i izvan četiri zida, jer ovo su i naše ulice!' [Our lives exist outside four walls, because these are our streets as well!] (*LGBTI.ba*, 26 October 2016) <<http://lgbti.ba/nasi-zivoti-postoje-i-izvan-cetiri-zida-fer-ovo-su-i-nase-ulice/>> accessed 21 March 2019
- 'Sarajevski otvoreni centar: Ko i kako odlučuje o slobodi okupljanja građana/ki Kantona Sarajevo?' [Who and in which way decides about the freedom of assembly of Canton Sarajevo citizens?] (*LGBTI.ba*, 28 March 2018) <<http://lgbti.ba/sarajevski-otvoreni-centar-ko-i-kako-odlucuje-o-slobodi-okupljanja-gradjana-ki-kantona-sarajevo/>> accessed 21 March 2019
- 'BBI Centar tvrdi da su kompanije unutar njegovog centra protiv okupljanja LGBTI osoba?' [BBI Center claims that its companies are against assembly of LGBTI people?] (*LGBTI.ba*, 24 May 2018) <<http://lgbti.ba/bbi-centar-tvr-di-da-su-kompanije-unutar-njegovog-centra-protiv-okupljanja-lgbti-osoba/>> accessed 21 March 2019
- 'Ustavni sud BiH potvrdio: Nadležne institucije su prekršile pravo na slobodu okupljanja LGBTI zajednice jer nisu zaštitile festival Merlinka' [Constitutional Court of BiH confirms: The authorities violated the right to assembly of LGBTI community because they failed to protect the Merlinka Festival] (*LGBTI.ba*, 17 January 2019) <<http://lgbti.ba/ustavni-sud-bih-potvrdio-nadlezne-institucije-su-prekr-sile-pravo-na-slobodu-okupljanja-lgbti-zajednice-fer-nisu-zastitile-festival-merlinka/>> accessed 21 March 2019
- Nezavisne novine, 'Ambasade SAD-a, Njemačke, Velike Britanije i OHR se oglasili o nacrtima zakona u RS' [Embassies of USA, Germany, Great Britain and Office of High Representative speak about the drafts of law in Republic of Srpska] (*Nezavisne novine*, 11 April 2019) <www.nezavisne.com/novosti/bih/Ambasade-SAD-a-Njemacke-Velike-Britanije-i-OHR-se-oglasili-o-nacrtima-zakona-u-RS/532875> accessed 13 April 2019
- Novinari BH, 'Odgovor na dopis MUP-a Republike Srpske u vezi sa reagiranjem BH novinara na Nacrt izmjena Zakona o javnom redu i miru RS' [Reply to the letter of Ministry of Internal Affairs of Republic of Srpska in relation to the reaction of BH Journalists regarding the Draft of changes of the Law on public order of Republic of Srpska] (*BH Novinari*, 9 April 2019) <<https://bhnovinari.ba/bs/2019/04/09/odgovor-na-dopis-mup-a-republike-srpske-u-vezi-sa-reagiranjem-bh-novinara-na-nacrt-izmjena-zakona-o-javnom-redu-i-miru-rs/>> accessed 13 April 2019
- OSCE, 'OSCE Representative Désir and Ambassador Berton concerned about amendments to Law on Public Order and Peace in Republika Srpska, Bosnia and Herzegovina' (OSCE 5 April 2019) <www.osce.org/representative-on-freedom-of-media/416381> accessed 13 April 2019
- Povorkaponosa.ba, 'Bosna i Hercegovina konačno dobija povorku ponosa' [Bosnia and Herzegovina finally gets its pride parade] (*Povorkaponosa.ba*, 31 March 2019) <<http://povorkaponosa.ba/2019/03/31/bosna-i-hercegovina-konacno-dobija-povorku-ponosa/>> accessed 1 April 2019
- Sasso A, 'Post-elections in Bosnia and Herzegovina: heavy politics' (*Osservatorio Balcanico e Caucaso Transeuropa*, 12 November 2018) <www.balcanicaucaso.org/eng/Areas/Bosnia-Herzegovina/Post-elections-in-Bosnia-and-Herzegovina-heavy-politics-190509> accessed 13 April 2019
- Vasić V and others (eds), 'Rozi izvještaj 2018. Godišnji izvještaj o stanju prava LGBTI osoba u Bosni i Hercegovini' (Sarajevski otvoreni centar 2018) 3, 8, 13, 27-29 <<http://soc.ba/site/wp-content/uploads/2018/05/Rozi-izvjestaj-2018.pdf>> accessed 21 March 2019
- Vuković U, *Pravo na slobodu okupljanja u Bosni i Hercegovini: Između međunarodnih standarda i nacionalnih praksi* (Inicijativa za monitoring EU integracija u BiH 2018) <http://soc.ba/site/wp-content/uploads/2018/04/HRP-sloboda-okupljanja_web.pdf> accessed 13 April 2019



Monastery of San Nicolò
Riviera San Nicolò, 26
I-30126 Venice Lido (Italy)

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