



BEING LGBTI IN EASTERN EUROPE: ALBANIA COUNTRY REPORT  
Reducing Inequalities & Exclusion and Combating  
Homophobia & Transphobia  
experienced by LGBTI people in Albania

ALBANIA

NATIONAL LGBTI REPORT



Empowered lives.  
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This country report is part of a sub-regional project “Being LGBTI in Eastern Europe”, implemented by UNDP in partnership with civil society and in cooperation with the LGBTI Equal Rights Association (ERA). In Albania the project is being implemented with the following country partners: Ministry of Social Welfare and Youth, relevant line ministries, All United Pro LGBT Cause, Open Mind Spectrum, PINK Embassy, Alliance Against Discrimination of LGBT people, Ombudsman and Commissioner for Protection from Discrimination, Streha LGBT, and other civil society organizations that work in the human rights field.

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## Table of Contents

Acknowledgements .....	4
Acronyms .....	5
Definition of key terms .....	6
Executive summary .....	7
Methodology .....	9
Key findings .....	10
1. Introduction: A short history of LGBTI people in Albania .....	11
1.1 The 20 th century: the communist period .....	11
1.2 The post-communist period to the present day .....	11
2. Overview of the legal framework for LGBTI rights .....	14
2.1 The Albanian Constitution .....	14
2.2 The Law on Protection against Discrimination (LPD) .....	14
2.3 The Penal Code .....	15
2.4 The Labour Code .....	15
2.5 The Administrative Procedures Code .....	16
2.6 The Law on Pre-University Education .....	16
2.7 The Law on Free Legal Aid .....	18
2.8 The Family Code .....	18
2.9 The Law on Civil Status .....	18
2.10 The Law on Asylum .....	19
2.11 The Law on Healthcare .....	19
3. Institutional and policy environment .....	20
3.1 The National Plan of Action on LGBTI people’s rights 2016-2020 .....	20
3.2 Independent national human rights institutions (NHRI) .....	23
The Commissioner for Protection against Discrimination (CPD) .....	23
The People’s Advocate (PA) .....	25
3.3 Parliament .....	27
3.4 Government institutions .....	27
3.5 The judiciary .....	28
3.6 Civil society .....	28
4. Challenges in the social and cultural environment: an overview .....	33
4.1 The binary gender system .....	33
4.2 Discrimination by public officials and administrative bodies .....	33
4.3 Violence against LGBTI people .....	34
4.4 The situation of lesbians .....	34
4.5 The situation of gay men .....	35
4.6 The situation of bisexual people .....	35
4.7 The situation of transgender people .....	36
4.8 The situation of intersex people .....	36
4.9 LGBTI people in the media .....	38
4.10 Religion and LGBTI people .....	40
4.11 Politics and LGBTI people .....	41
5. Conclusions and recommendations .....	43
5.1 Conclusions .....	43
5.2 Recommendations .....	44
Bibliography .....	47
Endnotes .....	55

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## Acronyms

AIDS	Acquired Immune Deficiency Syndrome
Alliance LGBT	Alliance against discrimination of LGBT people
ALGA	Albania's Gay Association
AMA	Audiovisual Media Authority
BLEE	Being LGBTI in Eastern Europe
CAT	Convention against Torture
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CHR	Commission on Human Rights
CoE	Council of Europe
CPD	Commissioner for Protection from Discrimination (Albania)
CRC	United Nations Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSO	civil society organization
ECRI	European Commission against Racism and Intolerance
EU	European Commission
FtM	female-to-male
GCS	gender-confirming surgery
GISH	Social Integration Group
HIV	Human Immunodeficiency Virus
HRT	Hormone Replacement Therapy
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of all Forms of Racial Discrimination
ICESCR	International Convention on Economic, Social and Cultural Rights
ICRMW	International Convention on the Protection of the Rights of all Migrant Workers
IDAHO	International Day against Homophobia and Transphobia
ILGA	International Gay and Lesbian Association
LEA	local education authorities
LGBTI	lesbian, gay, bisexual, transgender and intersex
LPD	Law on Protection against Discrimination
MtF	male-to-female
MoH	Ministry of Health
MoI	Ministry of the Interior
MoJ	Ministry of Justice
MoSWY	Ministry of Social Welfare and Youth
MoES	Ministry of Education and Sports
MSM	men who have sex with men
NGO	non-governmental organization
NHRI	national human rights institutions
OHCHR	United Nations Office of the High Commissioner for Human Rights
PA	People's Advocate (Albania)
PINK Embassy	PINK Embassy/LGBT Pro Albania
PLWHA	people living with HIV/AIDS
Pro LGBT	All United Pro LGBT Cause
OMSA	Open Mind Spectrum Albania
SOGI	sexual orientation and gender identity
SRS	sex reassignment surgery
STI	sexually transmitted infection
SWAN	Sex Workers Rights Advocacy Network
TGEU	Trans-Gender Europe
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
UPR	Universal Periodic Review
USAID	United States Agency for International Development
WHO	World Health Organization

## Definition of key terms<sup>1</sup>

### LGBTI

LGBTI stands for “lesbian, gay, bisexual, transgender and intersex people”. While these terms have increasing global resonance, in different cultures other terms may be used to describe people who form same-sex relationships and those who exhibit non-binary gender identities.

### Sexual orientation

Sexual orientation refers to a person's physical, romantic and/or emotional attraction towards other people. Everyone has a sexual orientation, which is integral to a person's identity. Gay men and lesbian women are attracted to individuals of the same sex as themselves. Heterosexual people (sometimes known as “straight”) are attracted to individuals of a different sex from themselves. Bisexual people may be attracted to individuals of the same or different sex. Sexual orientation is not related to gender identity.

### Gender identity

Gender identity reflects a deeply felt and experienced sense of one's own gender. A person's gender identity is typically consistent with the sex assigned to them at birth. For transgender people, there is an inconsistency between their sense of their own gender and the sex they were assigned at birth. In some cases, their appearance and mannerisms and other outwards characteristics may conflict with society's expectations of gender-normative behaviour.

### Transgender

Transgender (sometimes shortened to “trans”) is an umbrella term used to describe a wide range of identities including transsexual people, cross-dressers (sometimes referred to as “transvestites”), people who identify as third gender, and others whose appearance and characteristics are perceived as gender-atypical. Transwomen identify as women but were classified as males when they were born. Transmen identify as men but were classified female when they were born. Some transgender people seek surgery or take hormones to bring their body into alignment with their gender identity; others do not.

### Intersex

An intersex person is born with sexual anatomy, reproductive organs, and/or chromosome patterns that do not fit the typical definition of male or female. This may be apparent at birth or become so later in life. An intersex person may identify as male or female or as neither. Intersex status is not about sexual orientation or gender identity: intersex people experience the same range of sexual orientations and gender identities as non-intersex people.

### Homophobia and transphobia

Homophobia is an irrational fear of, hatred or aversion towards lesbian, gay or bisexual people; transphobia denotes an irrational fear, hatred or aversion towards transgender people. Because the term homophobia is widely understood, it is often used in an all-encompassing way to refer to fear, hatred and aversion towards LGBT people in general.

## Executive summary

This Albania Country Report provides an overview of the rights of LGBTI people in Albania. It presents a participatory review and analysis of the impacts of the legal, institutional, policy, social, cultural and economic environment on LGBTI people. The report provides evidence relating to Albania's experience in promoting and protecting the rights of LGBTI people in education, employment, health, the family, media and politics. It forms part of a sub-regional project, "Being LGBTI in Eastern Europe" (BLEE).

The report is based on data from several sources. These include: a national round table;<sup>2</sup> community dialogues, interviews, field visits, and focus groups with LGBTI people and CSOs; discussions with relevant stakeholders and LGBTI organizations; a national validation workshop on the country report and a desk review of the published literature.

The report highlights priority issues related to human rights and contributes to the development of advocacy approaches by convening dialogue between national decision-makers and LGBTI organizations. It outlines steps towards LGBTI-inclusive development work for UNDP and other actors in the UN system, as well as for development partners. The report examines LGBTI people's experiences from a human rights and development perspective, and contextualizes this against the backdrop of civil society capacity and government commitments. The report provides analysis of national laws and policies on the human rights of LGBTI people; identifies achievements and gaps; and recommends measures for improvements.

UNDP is committed to supporting the institutional efforts of the Government of Albania to promote and protect the human rights of LGBTI people. In June 2014, when its candidate status for EU membership was confirmed, Albania intensified its efforts to fulfil the Council of Europe's fifth recommendation that Albania should ensure better protection of human rights.

In the area of the protection of the rights of LGBTI people, the Council of Europe Ministers' Recommendation (2010)<sup>5</sup> relating to measures on SOGI (sexual orientation and gender identity) constitutes the basis of the protection policy of the rights of LGBTI people. The application of the universal declaration on human rights and international human rights conventions provides a solid basis for the protection of human rights including in relation to SOGI. The protection of LGBTI people does not require the creation of new or special rights for LGBTI people.<sup>4</sup> Rather, it requires enforcement of universally-applicable principles of non-discrimination in the enjoyment of all rights.

Albania has achieved significant progress in the protection of rights of LGBTI people,<sup>5</sup> at legal and policy levels. The National Action Plan on LGBTI People 2016-2020, commissioned by parliament and adopted by the government in 2016, constitutes the main policy document for protecting the human rights of LGBTI people. It aims to improve the rights of LGBTI people in several areas, including in education, employment, health and housing. The Constitution of Albania establishes comprehensive rights for citizens, and promotes equality without discrimination. Same-sex relations and the expression of LGBTI identities are no longer a criminal offence. The Anti-discrimination Law includes SOGI as a prohibited grounds of discrimination. Hate crimes, where these are motivated by prejudices in relation to SOGI, are prohibited by the Penal Code. Discrimination in employment, moral and sexual harassment and derogatory comments against the employee on the grounds of SOGI are prohibited by the Labour Law. The Code of Administrative Procedures prohibits discrimination and shifts the burden of proof to the alleged perpetrator. The Law on Pre-University Education also prohibits discrimination on the basis of SOGI. Free legal aid is provided to LGBTI people who are victims of domestic violence.



Photo ©UNDP: The participants of the Albanian national LGBTI country dialogue



All these improvements constitute the implementation of substantial legal protections in the area of anti-discrimination. However, discrimination against LGBTI people persists in other areas. These include denial of the right to marry and have a family; the right of reassigned gender surgery for transgender people; and the right to self-determination in relation to bodily integrity for intersex people. The human rights of LGBTI people need further effective protection, enforcement of existing laws and amendment of discriminatory laws.

LGBTI people face sexual harassment and discrimination in recruitment and employment. Challenges include difficulties in finding work for people who are open about their sexual orientation, or stress caused by others finding out their sexual orientation. Transgender people, who cannot easily hide their identities, suffer the most employment discrimination. They are often limited to working in the sex industry, which is illegal. They cannot obtain documents showing their preferred gender which would then enable them to seek employment elsewhere.

The rights of LGBTI people are also not included in formal sex education or the general national curriculum for pre-university education. Teachers are not trained on the human rights of LGBTI people or on issues related to SOGI. Where sex education is available, teaching is based on a hetero-normative framework. This can lead to an unsafe educational environment for young LGBTI people. In educational institutions, LGBTI people are often subject to discrimination, bullying and abuse. There is a need for training on anti-discrimination law for teachers and students to ensure the physical safety and mental well-being of LGBTI young people.



Photo ©UNDP: The participants of the Albanian national LGBTI country dialogue

Health and well-being, including HIV and access to public health services, are real concerns for LGBTI people. For transgender people, access to gender-confirming surgery is a concern. Conversely, intersex people are often forced into unnecessary medical interventions. In-vitro fertilization (IVF) and assistive reproduction technology (ART) are not available to LGBTI people. A lack of LGBTI-friendly healthcare facilities and services is coupled with discriminatory attitudes and practices by the medical professional. There is insufficient access to psychological and mental health services, particularly considering the immense pressures of discrimination, stigma, social ostracism and internalized homophobia faced by LGBTI people.

Whilst the overt influence of religion appears to be relatively low, some elements in mainstream Albanian society promote the idea that LGBTI people are deviants. Media coverage of LGBTI identities is still inadequate, stigmatizing and based on common stereotypes. LGBTI activists are leveraging social media sources and the internet to change way in which the media portrays LGBTI people. Social media is playing an important role in allowing the LGBTI community to network, advocate and promote the work of LGBTI organizations. LGBTI organizations are successfully working with LGBTI-friendly politicians to advocate for legal and policy reforms that will improve the life of LGBTI people.



## Methodology

This report aims to strengthen our evidence-based understanding of the situation of LGBTI people in Albania. It aims to contribute to developing advocacy approaches and convening dialogue that brings together national decision-makers with LGBTI organizations, their allies and national human rights institutions. The final result is a set of recommendations related to social and legal improvements of the rights of LGBTI people and to the strengthening of the advocacy capacity of LGBTI organizations in Albania.

The sub-regional project “Being LGBTI in Eastern Europe” (BLEE) is a learning effort undertaken in the Western Balkans with grassroots LGBTI organizations and community leaders alongside UNDP. It focuses on four countries: Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, and Serbia. The BLEE initiative promotes understanding of the inherent human rights of LGBTI people and sheds light on the stigma and discrimination faced by LGBTI people across the region.

This report encourages networking between LGBTI people to develop advocacy strategies and engage in policy dialogue and community mobilization. It reflects the views of the LGBTI community and of other stakeholders who are working to enhance rights of LGBTI people. A national round table on “Reducing Inequalities and Exclusion, and Combating Homophobia and Transphobia in Albania” was held on 23 June 2016 in Tirana, organized by UNDP, with support from USAID and in cooperation with the Ministry of Social Welfare and Youth (MoSWY) and the LGBTI Equal Rights Association for Western Balkans and Turkey (ERA). The round table brought together representatives from parliament, the Ministry of Social Welfare and Youth (key partner), the Ministry of Interior, the Ministry of Health, the Ministry of Education, the Ministry of Justice, the General Directorate of State Police, the Ombudsman and Commissioner for Protection from Discrimination, United Pro LGBT Cause, Open Mind Spectrum, PINK Embassy, Alliance Against Discrimination of LGBT people, Streha LGBTI and other civil society organizations working on human rights issues such as People Living with HIV/AIDS, SWAN Foundation, ALGA, Aksion plus, Albania Community Assist, TLAS, Stop AIDS, Albanian Helsinki Committee, CoE, WHO, USAID/Albania, the Netherlands Embassy and the US Embassy in Tirana. The round table discussed the rights of LGBTI people and related issues.

The participants raised issues in relation to the legal, institutional, socio-economic, and cultural context. The topics debated during the round table addressed critical concerns in the area of human rights and anti-discrimination legislation. LGBTI organizations shared their experiences and the meaning of “being LGBTI in Albania” with the other participants. The participants emphasized the effective implementation of the National Plan of Action (NAP) on LGBTI people as a means towards protection and full enjoyment of human rights. The round table strengthened the evidence-based information on the rights of LGBTI people in Albania, providing multiple explanations about the conditions that can prevent or support the advancement of the rights of LGBTI people. The decision makers, four partner LGBTI CSOs, international agencies and various stakeholders made suggestions for further improvements to the legal and policy framework relating to LGBTI people's rights and developed recommendations for advocacy approaches related to protection policy. The participants agreed on priority issues related to the further improvement and effective implementation of the existing legal framework for the rights of LGBTI people in Albania.

Among other recommendations, the participants suggested:

- The Family Code should be amended in order to allow for same-sex partnerships or civil unions;
- Institutional policy should take into consideration the needs of LGBTI people and be evidence-based;
- The National Action Plan relating to LGBTI people should be communicated and financed; and
- There should be more public awareness-raising about the rights of LGBTI people.

Information about the situation of LGBTI people was gathered through fieldwork. Representatives of institutions and LGBTI organizations provided valuable information on the current status of legal and policy reforms relating to human rights and anti-discrimination for LGBTI people. Interviews with policy-makers and the LGBTI community provided information about the significant factors hampering human rights and anti-discrimination policies for LGBTI people. The LGBTI community stressed the need to coordinate advocacy actions with institutional efforts. LGBTI people discussed the effects of laws, policies, culture and social attitudes on their lives. They felt that proper consultation processes between institutions and LGBTI people will be crucial to advancing their human rights.

Discussion on the impacts of the laws and policies on the lives of LGBTI people in Albania and on cooperation between institutional entities and civil society took place in a focus group composed of members of four LGBTI organizations: Alliance LGBT, PINK Embassy, Pro LGBT and OMSA. The community members discussed issues related to education, health, employment, family affairs, media; and the impact of religion and politics. The discussion covered specific issues related to the legal and policy framework. The focus group provided an opportunity to discuss and evaluate the context for human rights, including advancements and challenges, and influencing factors. The participatory methodology enabled LGBTI people to voice their concerns and propose constructive solutions. LGBTI participants provided accounts of violence and discrimination against them and informed about the impact that the current laws and policies have on their lives. The LGBTI community praised social activism as the most influential factor supporting the adoption of more supportive legislation. Finally, the participants made recommendations for improvements to legislation and policy.

The report begins with a synopsis of the political and social situation of LGBTI people in Albania, followed by an examination of the legal, institutional and socio-cultural context. The introduction provides a brief history of the situation of LGBTI people in Albania, and a review of the development of the LGBTI movement over the last two decades. Chapter 2 provides an overview of the rights of LGBTI people in Albania as these are set out in current legislation. Chapter 3 explores the policy and institutional context for LGBTI rights in Albania, setting out the roles and capacities of key institutions and civil society actors. Chapter 4 examines of Albania's experience of protecting the rights of LGBTI people within different sectors including education, health, employment, religion, media, politics and inclusive social life. The report includes personal accounts of LGBTI people's experiences, based on reports from participants as well as from previously published work. The final section presents a series of recommendations for action by government and other stakeholders.

## Key findings

Written evidence of the historical existence of homosexuality in Albania is scarce. The Constitution of Albania<sup>7</sup> establishes comprehensive rights for citizens. It provides protection from discrimination in general, including discrimination on the grounds of gender, but not specifically on the grounds of sexual orientation or gender identity (SOGI). Since 2010, Albania has had a Law on Protection from Discrimination<sup>8</sup>. Hate crimes and hate speech on the grounds of SOGI are prohibited in the Penal Code.<sup>9</sup> Discrimination on the grounds of SOGI is prohibited by several laws: the Labour Code,<sup>10</sup> the Code of Administrative Procedures,<sup>11</sup> the Law on Pre-University Education,<sup>12</sup> and the Law on Free Legal Aid.<sup>13</sup> The Family Code<sup>14</sup> does not recognize the rights of same-sex couples to marry or to enter into civil union. Same-sex couples also do not have any rights to access assistive reproduction technology (ART) or to adopt children. Rights relating to property, inheritance, tax or a surviving partner's pension are not recognized for same-sex couples. The Law on Civil Status<sup>15</sup> lacks procedural conditions for reassigned gender recognition. The Law on Healthcare<sup>16</sup> and on Public Healthcare<sup>17</sup> guarantee the right to health for all; however, LGBTI people face discrimination by health professionals.<sup>18</sup> The Law on Reproduction does to support the right to reproduction to lesbians and gays.<sup>19</sup> The Law on Asylum<sup>20</sup> considers affiliation to a particular social group to be a basis for granting refugee status to people facing persecution, however it does not include explicit references to SOGI as grounds for protection. There is no official information about LGBTI foreign nationals having requested asylum in Albania because of persecution based on their sexual orientation, gender identity, or sex characteristics; meanwhile the number of Albanian LGBTI people who seek asylum in the EU is increasing.<sup>21</sup>

Albania has adopted a National Action Plan 2016-2020 for LGBT rights.<sup>22</sup> Albanian LGBTI citizens benefit from the protection of two National Human Rights Institutions: the People's Advocate and the Commissioner for Protection against Discrimination. Pro-LGBTI policies urge institutions and private establishments to comply with anti-discrimination laws. These achievements in policy and legislation have led to a contradictory situation combining an outward appearance of legal protection and higher visibility of LGBTI people with hostility and discrimination still prevalent within key institutions. The government lacks the capacity to implement policies and laws that can benefit LGBTI people. There is little awareness-raising among civil servants, health professionals and law enforcement officers about the rights of LGBTI people and discrimination on the grounds of SOGI.<sup>23</sup>

In reviewing the social context,<sup>24</sup> it was noted that challenges for the rights of LGBTI people include social and institutional resistance. Despite the notable advances in the legal and policy framework, the vast majority of LGBTI people still face rigid social norms, an incomplete legal framework, and burdensome bureaucracy. Most LGBTI people are compelled to hide their SOGI and are frequently subject to human rights violations, stigma, and discrimination. LGBTI individuals tend to be more visible in urban than rural settings<sup>25</sup> Faith-based organizations are working to undermine pro-LGBTI policies and fuelling negative attitudes towards LGBTI people.<sup>26</sup> Representations of LGBTI people in the media are negative,<sup>27</sup> generally portraying homosexuality as a damaging social norm imported from Western countries.

LGBTI organizations are being included in stakeholder conversations about the development of laws and policies related to LGBTI people and are successfully working with LGBTI-friendly politicians to advocate for legal and policy reforms that will improve the life of LGBTI people.

## 1. Introduction: a short history of LGBTI people in Albania

### 1.1 The 20th century: the communist period

Albania became independent from the Ottoman Empire in 1912. In 1920 the country was declared a monarchy and in 1939 it was annexed by Mussolini's Italy. After the Second World War, from 1944-1990, the country was ruled by communists. During the communist regime, same-sex acts were criminalized through Article 137 of the Penal Code, which stated that: "Pederasty is punishable with up to ten years of freedom privation". The term "pederasty" was coined to depict sex between two consenting adult males or sex between a man and a child of any gender. Considered a shameful deviance, same-sex relationships were harshly penalized and morally condemned, resulting in ostracism, family rejection and violence. The "sexual revolution" in Western countries during the 1960s was largely interpreted in communist propaganda as "the decay of imperialist Western culture and the demise of the indulgent bourgeois society".

During the communist period, LGBTI people were invisible as a result of public hostility, criminalization and institutionalized persecution. Socially discredited and legally banned, LGBTI people were forced to meet in secret and often to enter into heterosexual marriages in pretence. They could not fight against the injustices of the regime because human rights were seriously restricted in communist Albania.

### 1.2 The Post-communist period to the present day

Following the collapse of the communist regime in 1990, Albania began its transition towards democracy and market economy. The country went through radical economic, political, social and cultural reforms. Freedom of movement and migration exposed Albanians to the cultural influence of the West. Despite the developing cultural openness, there was still little understanding and tolerance towards LGBTI people.

The Constitution of 1991 provided for fundamental rights and freedoms including civil, political, economic, social and cultural rights. On 20 January 1995, after international pressure from the Council of Europe and ILGA, the Albanian Parliament decriminalized consensual same-sex sexual relations.

The Constitution of 1998 enhanced the protection of human rights with a specific clause on anti-discrimination, including gender as a prohibited ground for discrimination. The Law of Protection against Discrimination, approved in 2010, prohibits discrimination on the basis of SOGI.

Albanian LGBTI citizens benefit from the protection of two equality bodies, the People's Advocate (PA) and the Commissioner for Protection against Discrimination (CPD), both providing independent assistance to LGBTI persons who are victims of human rights violations or discrimination. They have issued reports on the situation with regards to the rights of LGBTI people.<sup>28,29</sup> These reports provide evidence of human rights violations and discrimination against LGBTI people. Both institutions have made recommendations to amend various laws, including the Penal Code, Family Code, the Law on Pre-University Education, the Administrative Procedure Code and the Labour Code. Among the main recommendations, they suggest improvements of the human rights legal framework in the Penal Code,<sup>30</sup> in order to address the critical issues of hate crime, hate speech and discriminatory inequalities in the Labour Code<sup>31</sup> on the grounds of SOGI. Both the PA and the CPD have reacted against homophobic declarations by conservative politicians, and have investigated the complaints of LGBTI organizations.

The main central institution for the protection of the human rights and the right to non-discrimination for LGBTI people is the Ministry of Social Welfare and Youth (MoSWY).<sup>32</sup> The responsibilities of this Ministry have a large potential impact on the rights of LGBTI people in areas such as: employment, social welfare services, social inclusion, equal opportunities and protection from discrimination. MoSWY coordinates its work with other central government institutions, equality bodies and civil society. MoSWY has developed two National Action Plans on LGBT rights, for 2012-2014<sup>33</sup> and now 2016-2020.<sup>34</sup> The first plan paved the way towards institutional cooperation between MoSWY, national human rights institutions (NHRIs), institutions and LGBTI organizations. The second plan was initiated in October 2016 with the creation of the National Implementation and Coordination Group (NICG).<sup>35</sup> The Ministry of Education and Sports (MoES) has begun training of teachers on anti-discrimination but has not taken any other practical steps to address discrimination against LGBTI students and inclusion of their rights in the curriculum.<sup>36</sup> The Ministry of Justice (MoJ) has not amended the Family Code on same-sex marriage or civil unions, and the Ministry of Information (Moi) has not issued sub-legal acts on the official recognition of gender reassignment. The Ministry of Health (MoH) does not allow LGBTI people access to assistive reproduction technology (ART) and has no protocols for sex reassignment surgery (SRS).

LGBTI organizations have brought the cause of discrimination to the forefront of human rights mechanisms. The Second Universal Periodic Review (UPR) of 2013, presented by the government of Albania, has been accompanied by shadow reports by LGBTI organizations. As the result of these reports, the UN Human Rights Committee's recommendations for Albania included improvements in the current situation of LGBTI people, specifically interventions to combat stereotypes and prejudice and social stigmatization of LGBTI people.<sup>37</sup>

In 2015, based on a request by the parliamentary Sub-Committee on Human Rights and on recommendations from the PA, the Albanian parliament issued a Resolution on the rights of LGBTI people.<sup>38</sup> The Resolution required the development of a National Plan of Action for the protection of LGBTI people, based on the recommendations made during Albania's EU accession process, as well as on the Council of Europe Committee of Ministers' recommendation "On measures to combat discrimination on grounds of sexual orientation or gender identity".<sup>39</sup> The Resolution called for the MoES to train teachers on issues relating to discrimination against LGBTI students, and for MoSWY to amend the Labour Code to include anti-discrimination clauses on the grounds of SOGI.<sup>40</sup>

The late 1990s marks the emergence of the LGBTI movement in Albania, the starting point of a new gay culture influenced by gay culture in other Western countries. The first organization to be established within Albania's nascent LGBTI social movement was "Gay of Albania", which was established in 1994 but which operated in almost total secrecy because of harsh prejudices against gay men within wider Albanian society. In 1995, for the first time, the public was exposed to the concept of sexual rights, when the leader of the organization gave an interview for the largest daily newspaper *Koha Jonë*. Gay of Albania closed its activities in 1999, when its leader left Albania. By then, Albania's Gay Association (ALGA) was established. In 2003, Social Integration Group (GISH) was created. The ability of these organizations to operate was highly constrained, within a very hostile environment. This resulted in continued low levels of representation and visibility of LGBTI people and their needs. Since support from authorities in Albania was lacking, the LGBTI movement sought international support. In 2000, the Soros Foundation launched a call for the social mobilization of LGBTI people, declaring explicit support to the movement.<sup>41</sup> By 2010, important LGBTI-related developments occurred, such as the founding of four new organizations for LGBTI people: Alliance LGBT, PINK Embassy,<sup>42</sup> Pro-LGBT and OMSA, all of which are working to advance the cause of human rights for LGBTI people today.

The first International Day against Homophobia and Transphobia (IDAHOT) took place in 2008 with support from Children Human Rights Center Albania (CRCA), Human Rights Group and the Albanian Helsinki Committee. In 2010 PINK Embassy held the first Festival of Diversity and since then this event has been organized annually around the 17<sup>th</sup> of May.<sup>43</sup> Festive demonstrations have organized by other LGBTI organizations<sup>44</sup> such as the Bike (P)Ride which took place in 2012, to celebrate IDAHOT.<sup>45</sup> In June 2012, the US Embassy in Tirana hosted the first US government-sponsored regional workshop on LGBTI issues, with participants from 17 different European countries. The US Secretary of State Hillary Clinton officially opened the conference, stating that in the region of the Balkans: "It remains so much to be done, to respect the rights of the LGBT community".<sup>46</sup> LGBTI civil society organizations have reported several individual cases of violence and discrimination throughout the years, including instances where LGBTI people were chased away from home and had their resources cut by unsupportive families, or were sexually abused and sought to leave Albania.<sup>47</sup> In December 2014, two LGBTI NGOs, Alliance LGBT and LGBT Pro, opened a shelter for LGBTI individuals who are victims of domestic violence.<sup>48</sup>



Although there has been an increase in the visibility of LGBTI issues, the discourse on LGBTI rights remains relatively new and is mainly located in the capital, Tirana. Despite the efforts of many organizations to give a voice to LGBTI people's needs and challenges, some segments of the LGBTI community are not fully visible, particularly bisexual, transgender and intersex people. The bisexual community remains under-represented because it is stigmatized by both heterosexual and gay communities. There are no dedicated campaigning organizations for bisexual, transgender or intersex people, which explains the lack of legislation on gender reassignment and hormonal replacement therapy for transsexual people. In addition there is no umbrella LGBTI organization in Albania, although existing organizations tend to work with each other for common issues.

LGBTI organizations are increasingly investing in research on the rights of LGBTI people.<sup>49</sup> LGBTI organizations have produced a wealth of materials to support mass education on human rights concerning LGBTI people. They have trained public officials and state police officials to adopt human-rights-based approaches in their work with LGBTI people.<sup>50</sup> However, despite this growing awareness about LGBTI issues, studies show that LGBTI people in Albania face multiple challenges in every aspect of daily life. A 2015 public opinion poll on LGBTI rights in the Western Balkans found that Albanians are very homophobic. Just eight percent of respondents reported that they interact with someone they know to be LGBTI. Some 92 percent of respondents declared that they would not interact with LGBTI people; and 48 percent stated that homosexuality is a sickness.<sup>51</sup> The poll reveals a low level of acceptance and high level of resistance to conferring equal rights and opportunities to LGBTI people. LGBTI people are more likely to tell their friends and siblings than their parents that they are LGBTI. According to the testimonies of LGBTI people, 76 percent have been psychologically abused and verbally harassed, and 36 percent physically abused – mostly by family members and friends. Almost half of the survey respondents believed that homosexuality is imposed by the West.



Photo ©UNDP: Presenting the preliminary findings of the Albanian Country report on LGBTI people for validation at the MoSWY

Albanian politicians often hold controversial attitudes towards the rights of LGBTI people. The 2010 parliamentary approval of the Law on Protection from Discrimination was a positive sign of the political will to protect LGBTI people from discrimination on equal basis with all citizens. In 2013, following consultation with LGBTI people's organizations, the Socialist Party included the rights of LGBTI people in their electoral program. The Socialist Party-led government of 2013-2017 approved two Plans of Action for LGBTI people: the 2012-2014 Plan of Action and the 2016-2020 Plan of Action. In 2016 the Constitution was amended, however a clause on prohibiting discrimination on the grounds of SOGI was not included, reflecting unwillingness on the part of politicians to broaden existing protections from discrimination for LGBTI people. In reviewing the situation of LGBTI people in Albania, the legal and policy advancements which have been achieved have not yet been translated into improvements on the ground for LGBTI people, who are widely threatened with discrimination and violence, including in the family, schools, bars, streets and public institutions.

## 2. Overview of the legal framework for LGBTI rights

Albania has signed and ratified a number of international instruments guaranteeing the protection and fulfilment of human rights, including the rights of LGBTI people.<sup>52</sup> The application of the Universal Declaration of Human Rights and international human rights conventions provides a solid basis for the protection of human rights,<sup>53</sup> and guarantees equality before the law without discrimination.<sup>54</sup> The protection of people on the basis of SOGI does not require the creation of new rights for LGBTI people. Rather, it requires enforcement of the universally applicable principles of non-discrimination in the enjoyment of all rights. Albania is at an important milestone in its European Union integration process and in this respect the legislation is being reworked to match the international standards on democratic principles of equality between citizens and respect for human rights. Albania has ratified the European Convention on Human Rights, the human rights treaties of the Council of Europe<sup>55</sup> and is harmonizing its laws with a number of EU directives that set standards in equal treatment.<sup>56</sup> Albania is committed to implementing the Council of Europe recommendation CM/Rec (2010)5 “On measures to combat discrimination on grounds of sexual orientation or gender identity”, by examining the existing legislation. However, according to existing information, to date no cases related to LGBTI people and directly concerning Albania have been brought before the European Court of Human Rights (ECtHR).

### 2.1 The Albanian constitution

According to the Albanian Constitution,<sup>57</sup> any ratified international agreement constitutes part of the internal legal system after its publication in the Official Gazette (Article 122). The international treaty monitoring bodies have expressed concerns about the direct application of international law in the domestic context. For instance, the CEDAW Committee has twice reiterated its concerns about the lack of clarity regarding the direct applicability of the Convention in Albanian domestic law.<sup>58</sup> In the context of Albania's EU integration process, the Stabilization and Association Agreement (SAA) between Albania and the EU has determined the general obligation to bring Albanian legislation into line with EU laws, urging the legislation to be compatible with the Community *acquis* (Article 70). The Constitution establishes comprehensive rights for citizens (Article 15) and guarantees equality before the law, regardless of gender among other causes (Article 18). Gender may be interpreted in a broad sense as an encompassing term for SOGI as well.

### 2.2 The law on protection against discrimination (LPD)

Since 2010, Albania has adopted a comprehensive Law on Protection against Discrimination (LPD)<sup>59</sup> which is largely in line with the EU *acquis* on equality.<sup>60</sup> It regulates the implementation of the principle of equality in connection with “gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, economic, education or social situation, pregnancy, parentage, parental responsibility, age, family or marital condition, civil status, residence, health status, genetic predispositions, disability, affiliation with a particular group or for any other reason” (Article 1). Discrimination is defined as “every distinction, exclusion, limitation or preference because of any cause mentioned in Article 1 of this law that has as a purpose or consequence the hindering or making impossible the exercise of the fundamental rights and freedoms recognized by the Constitution” (Article 2). The scope of the law ranges from discriminating advertisements to participation in politics, employment, education and goods and services, and covers both the public and private sectors. It also establishes a national structure for protection from discrimination, the CPD. The LPD authorizes other government institutions, such as the Council of Ministers, MoSWY, Mol, MoE and Local Educational Authorities (LEAs) to implement it.

## 2.3 The penal code<sup>61</sup>

Before 1995, same-sex sexual relations were illegal in Albania: Article 137 of the old Penal Code provided that homosexuality was punishable by up to ten years of imprisonment. Today, under current legislation, same-sex sexual relations are permitted. The rights of LGBTI people are protected by recent changes in the Penal Code.<sup>62</sup> The Penal Code was amended in 2013 and includes SOGI as aggravating circumstances in hate crimes (Article 50j). However, dissemination of homophobic materials is not criminalized unlike racist or xenophobic content (Articles 119/a/b). The Penal Code criminalizes hate speech on the grounds of sexual orientation only (Article 265), leaving gender identity unaddressed. Discrimination on the grounds of SOGI by a public official is prohibited (Article 253). Having forced sexual relations with an adult male is punishable by law with 3-7 years in prison (Article 102/a); the same offence with an adult woman (including consorts or co-habitants) is punishable with 3-10 years in prison (Article 102).<sup>63</sup> When assault is carried out by many perpetrators and more than once, or when it causes damages to the victim's health, the penalty increases to 10 years in prison. For an assault which causes the victim's death, either by homicide or suicide, the penalty is 20 years. Forced sexual and homosexual relations by superiors or other personnel on duty are punishable with three years in prison (Article 105). For an assault where weapons are used the penalty is 15 years of prison (Article 104). Sexual harassment and sexual behaviour that inflict damage to personal dignity by creating a hostile and degrading environment are punishable with up to seven years in prison (Article 108). Sexual relations and sex work in public places, including same-sex relations, are considered to be criminal offences and punishable with a fine and up to three years in prison (Article 107/113). The criminalization of sexual activity in public places creates a risk of legal penalties against transgender persons who are forced into sex work. CPD has recommended that sex work should be decriminalized, and should not be confused with lucrative forced exploitation.<sup>64</sup>

The Albanian Penal Code does not provide protection from transphobic speech (Article 265) or from homophobic and transphobic incitement of hatred (Article 119/a/b); it does not criminalize homophobic and transphobic violence in the form of threat or harm on the grounds of SOGI (Article 84); it criminalizes consensual sex work and penalizes trans-sex work as "prostitution" (Articles 107-113); and it refers to forced same-sex relations as "homosexual" (Article 105). The Penal Code makes no provision in relation to unnecessary medical interventions with intersex people. This issue is addressed by the Law on Healthcare<sup>65</sup> and the Law on Reproductive Health<sup>66</sup> which prohibit any intervention without prior consent of the person concerned. However, consent for children may be given by parents or legal custodians, because children are minors and have no legal capacity.

## 2.4 The labour code<sup>67</sup>

The Labour Code was amended in December 2015 and entered into force in June 2016. It prohibits discrimination in employment and professions on the grounds of SOGI, defining discrimination as any differentiation, exclusion or preference threatening the individual right to be equal in terms of employment and treatment (Article 9). Moral and sexual harassment and derogatory comments against the employee's dignity and personality are prohibited (Article 32). In case of discrimination on the basis of SOGI the employer must prove that s/he has not committed a breach of the principle of equal treatment and in the case of sexual harassment, the law shifts the burden of proof to the employer or to the colleague that has perpetrated the harassment.

The Law on Protection against Discrimination (LPD) and the Labour Code<sup>68</sup> constitute the legal basis for protection of LGBTI people in the area of employment. The law prohibits discrimination in employment based on SOGI or sexual minority status, including in: job vacancy announcements, selection and recruitment processes, the signing of contracts, employee training in the workplace, and contract termination. But the reality shows that LGBTI people face high levels of discrimination by employers. The Labour Law provisions against discrimination are not being implemented. Young LGBTI people tend to migrate to big cities for employment.<sup>69</sup> In Tirana they can access employment more easily, and can receive support from LGBTI people's organizations. LGBTI people often hide their sexual orientation in the work place, because they fear negative repercussions from employers and colleagues. In 2016, Alliance LGBT reported 43 cases of discrimination in workplaces and/or discrimination in job recruitment and selection.<sup>70</sup> These included cases of LGBTI people having difficulties in finding work because of stigma and prejudice; experiencing sexual harassment during job interviews; or being fired because their employer has found out about their LGBTI status. In 2006, a survey with LGBTI people conducted by GISH (an LGBTI organization) revealed that 93 percent of respondents hid their sexual orientation at work because they feared non-acceptance.<sup>71</sup>



However, the 2015 poll of NDI shows that 39 percent of LGBTI workers who came out did so in front of work-colleagues. A 2016 study on perceptions of local officials about LGBTI service users found out that 73 percent of employees are positive towards the employment of LGBTI persons in public administration, considering that an employee's professional capacities are more important than their sexual orientation.<sup>72</sup> In 2015, the HeadHunter Group, an Albania-based staffing and recruitment firm used the Equality Index on LGBTIQ Employment for the first time,<sup>73</sup> revealing that companies in Albania have very little in the way of human resource policies and practices to protect and uphold the rights and dignity of minority job-seekers and employees. Of the 71 companies reviewed, only 22 percent had policies which contained language related to LGBTIQ, with 38 percent being willing to work more on LGBTIQ inclusion. Despite the fact that many businesses lack policies or training on the topic, it is encouraging that a significant percentage would like to engage further. This creates the space for further projects. The Headhunter company reported to have mediated job acquisition for 50 lesbians and gays in the private companies.<sup>74</sup>

Because sex work is criminalized in Albania, transgender people working in the sex industry are not protected by law. The situation of transgender women (MtF) working as sex workers is very dangerous. In 2012, a transgender sex-worker reported being subjected twice to physical violence and to being threatened with a knife by a client.<sup>75</sup> In July 2016, in the concluding observations of the Fourth CEDAW report on Albania, the Committee observed that disadvantaged groups of women, including lesbian, bisexual and transgender women, are not being effectively protected and are discriminated against as regards their access to health, employment, and housing among other areas.<sup>76</sup>

## 2.5 The administrative procedures code <sup>77</sup>

The 2015 revised Code of Administrative Procedures prohibits any kind of discrimination on the basis of gender and SOGI, amongst other grounds. This law ensures the effective protection of the rights of LGBTI people (Article 17). Further, in cases of discrimination on the basis of SOGI, the law shifts the burden of proof to the public institution, as foreseen in the LPD (Article 82).

## 2.6 The law on pre-university education <sup>78</sup>

The Law on Pre-University Education of 2012 prohibits discrimination on the basis of gender and sexual orientation (Article 5). Gender may implicitly cover gender identity. In Albania, formal protection in the school environment is ensured by legal provisions in the LPD and the Law on Pre-University Education;<sup>79</sup> however, effective protection lags behind the laws. Schools report an alarming level of violence in general, and against LGBTI students in particular.<sup>80</sup> LGBTI people say that 35 percent of the perpetrators are their friends and schoolmates.<sup>81</sup> This alarming figure explains why LGBTI people are reluctant to come out to their friends and peers. Only two out of seven of the respondents, both of whom live in Tirana, said that they had told their family about their sexual orientation. Others, from small towns and rural areas, had not told their parents or their friends, out of fear of discrimination, mistreatment and exclusion. In 2015, ten members of the community reported 38 incidents of discrimination in schools to the Alliance LGBT.<sup>82</sup> None of these incidents were reported to the authorities. Two of these 10 young LGBTI people have left school because of discrimination and bullying. The remaining eight LGBTI people in the sample were hiding their SOGI in order to stay in school, expressing concern that if they came out, their peers would bully them. LGBTI individuals face prejudice, discrimination, and verbal, psychological and physical abuse in school.<sup>83</sup> Teachers' perceptions about LGBTI students are often based on stereotypes. They tend to be very judgemental and homophobic. A teacher described the lesbian girls as "masculine" saying:

*"I know them by the way they sit. They hang around with boys...They feel somewhat superior, raise their voice and stick to their beliefs, which are characteristics of males."* <sup>84</sup>

Teachers typically suggested that LGBTI pupils should see a psychologist in order to “correct” the errant sexual orientation and “convert” to a heterosexual identity. When violence against LGBTI pupils occurred, instead of sending the aggressor for psychological treatment, teachers referred the bullied victim to the school psychologist. They acted in order to “help the victim” to change in order to look and behave in a more gender-conformist way, in order to avoid being bullied. In urban areas, some teachers referred the cases of physical violence to police; but in rural areas teachers did not refer the violence at all. Teachers had not received training on rights of LGBTI people, but had some superficial information gained from media and internet. They were hesitant about the inclusion of the rights of LGBTI people in the school curriculum because “it would normalize the deviant behaviour of homosexuals, which could have a disastrous effect on other pupils’ morality”. They said that the LGBTI individuals were sick people and should be cured, while “lesbians must get married to men and have children.” Transgender people had a much harder time being verbally abused and physically assaulted. One of the transgender pupils informed:

*“I was beaten once at school. They called me ‘pederast’. I yelled at them. Then three boys beat the hell out of me. I was embarrassed to tell my mom. I pretended I was sick and I stayed at home. I did not want to go to school, because I was afraid of being beaten. They threatened me, to not go back to school. I used to hang out with the girls as they did not make fun of me.”<sup>85</sup>*



Photo ©UNDP: Lecture on LGBTI inclusion led by partner CSOs, with students of the faculty of social Sciences, Tirana University

These intolerant school environments push transgender pupils to drop out of school. They suffer very much in solitude and have suicidal thoughts. One transgender girl had tried to commit suicide several times, because of the hostility of friends and teachers. School psychologists are not trained in SOGI and are not able to provide good professional support to LGBTI pupils. They cover four schools a day and talk to students about drugs, alcohol and smoking, which they considered to be “more important than homosexuality”. These attitudes indicate extreme homophobia and ignorance on the part of school psychologists, who are generally young people. The Local Education Authorities (LEAs) have not developed anti-discrimination policies targeting homophobic and transphobic bullying and violence against LGBTI pupils. LEA staff are not informed or trained on the rights of LGBTI people, and the “school curriculum does not have any information on this group”.

They reported that the school curriculum does not contain any information about the rights of LGBTI people or sexual diversity. Teachers do not speak to students on topics related to the rights of LGBTI people. Concerning discrimination and bullying, 33.6 percent of teachers said that it occurs because of evidenced or supposed SOGI and only 37 percent of them have reacted against such violence. Similar to the general population in the NDI poll<sup>88</sup> 85 percent of teachers would not accept their child if he or she identified as LGBTI. That teachers’ opinions are little different from those of the general public is a serious concern, because teachers are more educated, and also in a position to influence the attitudes of students.

To increase the level of LGBTI students' protection from bullying in schools, in April 2015 the MoES signed a cooperation agreement with PINK Embassy to organize lectures, presentations and other awareness-raising activities in high schools.<sup>86</sup> A study on homophobic discrimination and bullying was also conducted as part of the agreement.<sup>87</sup> The study results were made public in July 2016. The study found that many teachers hold discriminatory attitudes against LGBTI pupils. Almost 40 percent of teachers were not acquainted with the LPD at all, and those who knew about it mostly from media and the internet. Almost 94 percent of teachers did not know any LGBTI student, while 73 percent had very superficial information about LGBTI issues.

## 2.7 The law on free legal aid<sup>89</sup>

The Law on Free Legal Aid provides free legal aid to individuals who are victims of domestic violence and who “need legal aid in civil and administrative cases, but don't have the financial means to pay” (Article 13). An amendment to the law introduced the concept of Local Legal Clinics, which should provide assistance to vulnerable groups in local government units. The State Commission on Legal Aid (SCLA) is responsible for the provision of legal aid. LGBTI people have been demanding free legal aid.<sup>90</sup> The law has not yet been fully implemented because of practical difficulties surrounding its implementation as well as a lack of procedural acts.

## 2.8 The family code<sup>91</sup>

The Constitution of Albania recognizes that everyone has the right to marry and to have a family (Article 53). However, the Family Code defines marriage as an institution between *a man and a woman*, effectively prohibiting same-sex marriage (Article 163). Same-sex partners cannot adopt children together, because a minor cannot be adopted by more than one person unless they are spouses, meaning husband and wife (Article 242). According to the Law on Adoption (Article 16/2),<sup>92</sup> any person who applies for child adoption should fulfil the requirements of the Family Code – meaning they should be in a marital relationship (Article 242). PA<sup>93</sup> and CPD<sup>94</sup> have made requests to the Ministry of Justice (MoJ) for amendments of Family Code. In December 2013, LGBTI people's organizations asked the MoSWY to support the legal recognition of same-sex civil unions.<sup>95</sup> MoSWY forwarded that request to the MoJ in 2014.<sup>96</sup> To date, the MoJ has not begun any initiative to amend the Family Code. The legal recognition of same-sex partnership in Albania was also supported by the Council of Europe, during the implementation of the first National Action Plan on LGBTI people 2012-2014.<sup>97</sup> Additionally, the fifth monitoring cycle report of the ECRI in Albania demonstrated that the LGBTI community faces discrimination in relation to marriage and recommended that Albania should consider the possibility of providing same-sex couples with legal or other means to recognize their union.<sup>98</sup>

## 2.9 The law on civil status<sup>99</sup>

The Law on Civil Status, amended in 2013, in principle allows a person both to change their gender marker and their name in official civil status documentation. The law states that names can be changed if they are inappropriate – ie. if names are derogatory, immoral or racist, comedic, difficult to pronounce or confusing (Article 2) or if there are material errors in the register (Article 57/7). Any change should be certified by an official act of the relevant legal entity (Article 9). Both name and gender marker can only be changed on the basis of a court decision. The change of the name is based on the fact that the name is inappropriate, while the change of the gender marker is based on the fact that the gender/sex of the person has changed, which is proved by a medical report. A person's gender marker cannot be changed by self-declaration. The person should possess a court decision to request official recognition of the changed name and reassigned gender. The changes are then reflected in the National Register of the Civil Status (Article 57/10). According to information from the Ministry of Information (Mol) and the General Department of Civil Registry, to date there has been one case of formal recognition of reassigned gender, requested by an intersex person. For transgender persons there are no cases to date.<sup>100</sup> To support official recognition of reassigned gender, in 2015 the European Commission recommended that the authorities should guarantee the change of name and gender in official documents in a quick, transparent and accessible way.<sup>101</sup>

## 2.10 The law on asylum<sup>102</sup>

In its definition of a refugee, the Law on Asylum includes “a member of a particular social group” as a potential basis for granting refugee status to those who are persecuted because they are LGBT (Articles 3 and 4). However, there is no public official data available on the number of persons who have been able to use this as a basis for gaining asylum or subsidiary protection because of their sexual orientation or gender identity. SOGI does not figure explicitly among the persecution grounds of the asylum law. It is recommended that the law should refer expressly to cases of persecution for reasons of sexual orientation and gender identity.

## 2.11 The law on healthcare

The right to healthcare is granted by the Albanian Constitution. The provision of public healthcare<sup>103</sup> is a core government responsibility, and the Law on Healthcare<sup>104</sup> guarantees the right to health for all. Hospitals, clinics and other health institutions, public or private, are available to the general public. Individuals in employment pay contributions to the Institute of Healthcare Insurance (ISKSH)<sup>105</sup> while those who are unemployed receive state assistance to cover healthcare costs. All legislative documentation in the area of healthcare is generic and makes no specific reference to SOGI or to LGBTI people's health needs. Since the legal basis provides for healthcare for everyone, LGBTI people should be beneficiaries of healthcare on the same basis as other citizens. The LPD prohibits discrimination on the grounds of SOGI.

Rights to reproductive health,<sup>106</sup> health insurance and mental health<sup>107</sup> are accorded to everyone equally, but LGBTI people do not always enjoy them in practice. LGBTI people do not have access to assistive reproduction technology (ART); sex reassignment surgery (SRS) is not offered to transgender persons in public hospitals; and SRS and HRT costs are not covered by health insurance schemes. Intersex people are subjected to forced medical interventions, contravening their right to bodily integrity.<sup>108</sup>

LGBTI people have the same rights of access to the healthcare system as other citizens, but in practice they lack full access to the healthcare that they need, and suffer poor service quality. Data on LGBTI clients is inexistent, because a person's SOGI is not recorded in their medical files. It is difficult to design policy on LGBTI health in the absence of statistics. Typically, doctors presume that patients are heterosexual without discussion; this in turn means that specific health needs related to SOGI are not discussed.<sup>109</sup> Only the voluntary HIV test contains questions about a person's SOGI.<sup>110</sup> The national Mental Health Action Plan 2013-2022 does not mention LGBTI people as a group which is potentially vulnerable to suicidal thoughts or action.<sup>111</sup> There have been no national surveys on the health needs of LGBTI, while the medical curricula for health professionals do not address LGBTI people's rights to healthcare.

LGBTI people often face discrimination by health professionals. In 2015, Alliance LGBT gathered thirteen cases of discrimination relating to LGBTI people's access to healthcare.<sup>112</sup> In one case, a member of the community was not able to access necessary health services without being accompanied by a representative from Alliance LGBT. In another case a gay man reported that he had never accessed the healthcare system because everyone knew his sexual orientation in the city where he lived. A 2015 study of the PA and Alliance LGBT on access of LGBTI people to healthcare found that LGBTI people are invisible to the healthcare system and their needs are overlooked.<sup>113</sup>

Some health professionals openly express their prejudices against LGBTI people and build barriers to communication with them. LGBTI people in turn do not trust health professionals and hesitate to contact them. Only 15 percent of LGBTI people considered health professionals to be open and sensitive to LGBTI issues. These communication barriers hinder the development of mutual trust and openness. Health professionals do not ask LGBTI people about their SOGI, while LGBTI people do not tell health professionals about their sexuality. Only 27 percent of LGBTI peoples seeking medical professional help said they would be open about their sexuality to health professionals. Health professionals lack basic information and knowledge about the health needs and rights of LGBTI people. In one case a doctor asked the interviewer, “Are these gays born this way or what?” As a consequence, LGBTI people face delays in gaining an appropriate medical response to their specific needs, and a low quality of healthcare service. Rather than focusing on an LGBTI person's health needs, health professionals often try to convince LGBTI people to change their sexual behaviour, presuming that their lifestyle is the cause of their health problems. A person who has been victim of such “benevolent” prejudice reported:



*"I have decided to make all my health check-up visits abroad, because here in Albania when I went to see the doctor for a sexually transmitted disease, after the medicine prescription, when I asked the doctor: 'What do I have to do from now on?', he slapped my shoulders and reproaching me said, 'Give up this dirty work and everything will be fine!'"*

The 2015 study on LBT women's access to healthcare revealed that doctors and nurses "identify" LGBTI individuals based on stereotypes.<sup>14</sup> A doctor from the northern part of Albania, who became nervous when asked about LGBTI people, furiously responded "Thank God, we do not have them here!" In cases of violence, some health professionals in the study said they would refer the victim to their parents, even though the parents may have been the aggressors. To the health professionals in the study, all issues related to sexuality were taboo. Homosexuality was seen as a terrible disease. A doctor from the south said that although as a professional he would try to convince parents to accept an LGBTI child, as a parent he would never accept "a homosexual child". Another doctor said:

*"For people, homosexuality is a disease worse than cancer. We are a closed society. Parents raise hell if their daughter loves a boy; they would turn the world upside-down if they find out that their daughter loves a girl!"*

Some doctors did not know that homosexuality is not an illness. When asked about their response in cases of domestic violence towards LGBTI people, a doctor from Tirana said:

*"If the person is young I would tell the parents that this is a transitory phase. I would ask parents to pray to God that one day their child would become normal! Most of problems faced by LGBTI people are psychological. In the world, this is still a disease. Even when they are using violence, parents are trying to do the right thing for the child."*

Local health authorities have not yet issued regulatory frameworks for the prohibition of discrimination on the grounds of SOGI, although the LPD has been in existence for five years now.



Photo ©UNDP: Albanian team at the Sub-Regional Dialogue in Serbia. The team included representatives of CSOs, state institutions, the CPD, the Ombudsman, ERA and others.

### 3. Institutional and policy environment

#### 3.1 The National plan of action on LGBTI people's rights 2016-2020

Albania's legislative framework against discrimination on the basis of sexual orientation or gender identity (SOGI) is backed up by a National Plan of Action (NPA) on LGBTI people's rights. The current action plan is for the period 2016-2020, succeeding the previous one which was for 2012-2014. A particular focus of the Action Plan for 2012-2014 was the strengthening of LGBTI organizations and the contribution they make towards improving the lives of LGBTI people in Albania. Specifically, the most important steps in the implementation process of this plan include:

- (i) Engagement of the line ministries, CPD, the People's Advocate Office and international organizations;
- (ii) Addressing LGBTI issues with donors, agencies, international community in Albania and in Europe;
- (iii) Provision of training for police officers and education workers;
- (iv) Interaction and cooperation with other human rights NGOs;
- (v) Conducting research on the legal framework;
- (vi) Legislative proposals;
- (vii) Public awareness-raising, and;
- (viii) Provision of a safe shelter in Tirana to young LGBTI people who are obliged to leave home.

Many of these activities have been undertaken by civil society organizations. Several legislative reforms have taken place since the first plan, but a wide gap in implementation remains at all levels. This is particularly problematic at the regional and local levels, where LGBTI people are subject to various forms of discrimination in their daily life.<sup>15</sup>

The priorities and objectives outlined in the NPA 2016-2020 are based on needs as prioritized by the LGBTI community itself, as well as on an analysis of gaps and failures in implementation of the 2012-2014 action plan. Expertise for the preparation of the NPA was provided by the Council of Europe's SOGI Unit. The LGBTI NPA 2016-2020 was drafted by the Ministry of Social Welfare and Youth (MoSWY) and approved for implementation by legislation and policy development with the following priorities:

- (i) Safety and protection of rights, and;
- (ii) Access to services.

The fundamental basis for the measures outlined in the plan is the Recommendation of the Committee of Ministers of the Council of Europe CM/Rec (2010)5 to the Member States regarding the measures for the fight against discrimination on grounds of SOGI. The three key international tools which underpin the proposed measures are:

- 1 Albania's Roadmap for addressing the five key priorities, as part of its EU accession plan;<sup>16</sup>
- 2 The United Nations Human Rights Council Universal Periodic Review Report for Albania 2014;
- 3 ECRI Report 2015 on Albania.

The LGBTI Action Plan is also in compliance with the objectives of the National Strategy on Development and Integration II 2015-2020.<sup>17</sup>

## National plan of action: vision, goals and objectives

The National plan of action (NPA) sets out the following vision:

*A society that fights against all forms of discrimination on grounds of sexual orientation and gender identity and that guarantees equal rights, by increasing access to education, employment, healthcare, housing and full integration of LGBTI people in the society.*

*It has three strategic goals:*

- (i) To improve the legal and institutional framework and raise awareness on non-discrimination and protection of the rights of LGBTI people in compliance with international standards;
- (ii) To eliminate all forms of discrimination against the LGBTI community;
- (iii) To improve access to services: employment, education, healthcare, housing and sports services for LGBTI people by ensuring equal opportunities and rights.

### *Policy objectives*

The LGBTI NPA 2016-2020 addresses the main problems and issues affecting the lives of LGBTI people and leading to inequalities and discrimination. The plan seeks to establish synergies with the line ministries regarding non-discrimination and observance of human rights in Albania. In order to achieve the goals, interventions at several levels are foreseen, including: development of the legislative framework and alignment with other inclusion policies and strategies; development and provision of standardized services meeting the needs of LGBTI people; training of professionals, service providers and stakeholders dealing with education/information and public awareness, with a special focus on LGBTI people's rights, and on LGBTI people's NGOs. The main stakeholders involved in the LGBTI NPA 2016-2020 implementation are: the MoSWY, public administration and the responsible staff of the line ministries, at national and regional level; the CPD and PA offices; members of parliament; professionals in the education, healthcare, youth, social services, and employment sectors; national and international NGOs working on LGBTI and human rights issues; local and international experts on LGBTI and human rights issues.

The specific objectives for each strategic goal are set out below:

The legal and institutional framework goal has four objectives:

- (i)** To set up a National Implementation and Coordination Group (NICG) to monitor the implementation progress of the NPA;
- (ii)** To identify gaps in the legislation in order to ensure non-discrimination and human rights of LGBTI people.
- (iii)** To raise awareness among civil servants on the rights of the LGBTI community and their legal protection;
- (iv)** To strengthen civil society organizations dealing with the protection of the rights of the LGBTI community.

The goal on protection from discrimination and security has four objectives:

- (i)** To set up an accessible system for data collection and reporting on discrimination cases in different sectors;
- (ii)** To ensure protection for LGBTI people from discrimination and violence on the grounds of SOGI through capacity building in the sectors of justice and security;
- (iii)** To prevent hate speech and discrimination on the grounds of SOGI by raising public awareness and by strengthening civil society organizations involved in protecting the rights of LGBTI people;
- (iv)** To ensure safety and dignity for LGBTI people within institutions through the professional training and qualification for staff and development of non-discrimination work protocols.

The goal on access to services has six objectives:

- (i)** To improve the employment situation for LGBTI people by raising employer awareness of LGBTI issues and by providing employment programmes supporting LGBTI people;
- (ii)** To reduce discrimination against LGBTI people within education by reviewing the curricula at all educational levels and providing training on LGBTI issues for teachers and other education professionals;
- (iii)** To improve access to and provision of healthcare services through the inclusion of LGBTI issues in prevention programmes and the provision of training and capacity building for healthcare employees;
- (iv)** To improve the housing situation of LGBTI people by establishing social housing programmes and standardized services for safe housing;
- (v)** To improve LGBTI people's access to community sports facilities by reducing discrimination;
- (vi)** To improve inclusive asylum legislation and policies for LGBTI people.



### *Accountability, monitoring and evaluation*

The total budget for the implementation of the NPA is approximately 2.2 million Euros. Available resources from the state budget may cover 36.7 percent of the implementation costs. The monitoring will be a cross-sector process. At the policy level, the monitoring is foreseen to be conducted through an evaluation mechanism based on outcomes.<sup>118</sup> The MoSWY has a coordinating role in implementing and monitoring, through the Directorate of Social Inclusion and Gender Equality (DSIGE), which will set up a monitoring and evaluation cycle in close cooperation with the NICG.<sup>119</sup> DSI GE will monitor the NPA implementation and prepare progress reports. The MoSWY will coordinate the data collection process through gender equality focal points in the line ministries and Local Government Units. The monitoring and evaluation cycle will include: a medium-term progress evaluation, a review of actions and a final evaluation by the end of 2020. Monitoring will be based on a list of Indicators produced by MoSWY. The evaluation and monitoring reports will provide orientation for the Integrated Planning System (IPS), which is the primary tool for government decision-taking on strategic directions and allocation of national resources. The reports will be submitted to the Integrated Policy Management Group (IPMG)<sup>120</sup> and discussed in the meetings of the Social Inclusion Thematic Subgroup that is chaired by the MoSWY.

## 3.2 Independent national human rights institutions (NHRI)

The national human rights structures mandated to address inequality and discrimination in Albania are the Commissioner for Protection against Discrimination (CPD) and the People's Advocate (PA). Legislative, executive and judicial institutions are in charge of ensuring citizens' equality and human rights. The Law on Protection against Discrimination (LPD) defines the CPD, the Council of Ministers, MoSWY, MoI, and MoE as the main institutions responsible for anti-discrimination. CPD and PA are elected by parliament for a mandate of five years, with the right to be re-elected only once. CPD and PA are formally independent. They have a quasi-tribunal role since they are entitled to examine complaints of discrimination from individuals and groups and to take decisions to redress complaints.<sup>121</sup> When the CPD and PA decide to proceed with an independent investigation, they are entitled to conduct investigations, request explanations, obtain files or materials, and interrogate any person they deem relevant. They can start investigations *ex officio* as well.

### The Commissioner for protection against discrimination (CPD)

The CPD is a public legal person elected by parliamentary majority, and who assures citizens' effective protection from discrimination.<sup>122</sup> CPD is the equality body regulated by LPD. CPD was established in 2010 as the central institution for protection against discrimination. The areas of discrimination covered by CPD are: employment, education, goods and services. The forms of discrimination recognized by LPD are: direct and indirect discrimination, discrimination on the basis of association, harassment, victimization and instruction to discriminate. CPD receives and investigates complaints, imposes administrative sanctions, examines cases upon a court request and represents complainants in court. CPD can also become active at the request of organizations claiming a lawful interest in acting on behalf of a group or individual, except for judicial procedures, where the Law requires professional representation by an attorney.

CPD remedies consist in regulations, measures and fines decided by the CPD, and indemnification decided by the court. At the end of the procedure CPD may order regulations or measures to be performed by the person against whom the complaint is submitted, and sets a deadline for performing them. CPD recommendations can restore the rights of the complainant, can impose legislative change or can seek practical action to advance good equality and diversity practice. If recommendations are not implemented, CPD can impose fines or can withdraw operating licences from private companies.

Of 308 cases in 2014, 15 percent resulted in a finding of discrimination. In 2015 four complaints of discrimination on the basis of sexual orientation and one on gender identity were handled.<sup>123</sup> The complaints were about denial of access to public and private services on the grounds of SOGI; discrimination with regard to employment, housing and education; and homophobic comments made by politicians against same-sex marriage and pride parades. CPD has investigated them and has issued recommendations and sanctions against the alleged perpetrators. At the beginning, the work of the CPD was criticized by LGBTI organizations because of the low number of discrimination cases addressed. They have also criticized bureaucracy in assembling the required evidence and low efficiency in addressing the complaints.<sup>124</sup> However, since 2012 the workload of cases has increased.

## CPD special report on LGBTI people 2014

In a special report on LGBTI people in 2014,<sup>125</sup>CPD expressed concern about the lack of data on discrimination in Albania. The report highlights the precarious situation of LGBTI people who are exposed to public hatred because they do not conform with gender norms on sexuality, and of transgender persons being threatened and persecuted because they express a non-traditional identity visibly. In Albania, homophobic hate crimes are not recorded in any official statistics.<sup>126</sup>The report noted high levels of domestic violence against LGBTI people, especially lesbians and transgender persons. CPD has received complaints about the ill-treatment of LGBTI people – transgender people in particular – by state police on the basis of SOGI. The situation of transgender people is particularly acute since in addition to facing violence and hatred they often face discrimination in relation to basic needs such as housing, healthcare, employment and education. Of great concern is the use of hate speech against LGBTI persons by politicians and public officials, and widespread homophobic speech in the media and on the internet, inciting and legitimizing hatred and violence against the LGBTI community.

According to the 2014 special report, in 2012, following complaints by Alliance LGBT and LGBTI Pro, CPD initiated two investigations into politicians' homophobic speech. The organizations referred the politicians alleged to have made homophobic statements for prosecution by the Attorney's office. The Attorney refused investigation because of a legal vacuum in relation to hate speech. This case paved the way for amendment of the Penal Code in 2013, so that the code now includes the criminalization of hate crime and hate speech on the grounds of SOGI. In 2010, the CPD addressed a complaint from LGBT Pro and PINK Embassy about denying participation of LGBTI organizations in an HIV/AIDS hearing session by the Parliamentary Commission on Health. Recognizing the right of LGBTI organizations to be heard by parliamentary commissions on issues related to the health of LGBTI people, the CPD issued a recommendation for the parliament to provide space to LGBTI organizations in public hearings, which was taken into consideration in the next parliamentary hearing on HIV/AIDS in 2013. In 2011, following complaints by LGBTI organizations about pervasive physical violence in schools, the CPD conducted a survey in six schools around the country to assess the level of knowledge and application of the Law on Protection against Discrimination. The survey revealed that according to 17 percent of students and six percent of teachers SOGI was the principal cause of discrimination in school.<sup>127</sup>Based on the results of this study, in 2013, the CPD recommended MoES to take measures to reduce bullying in schools and to introduce human rights education into the curriculum. For that purpose, CPD signed a memorandum of cooperation with MoES to develop educational materials on human rights and non-discrimination, as well as providing school principals with recommendations on measures to combat discrimination and homophobia.

In 2011, the CPD recommended a set of measures for the LGBTI NPA 2012-2014, the most prominent of which were proposed improvements to the legislative framework, and anti-discrimination policies in the areas of employment, education, services and goods. CPD provided training on anti-discrimination to public administration, teachers, school principals, lawyers and state police officials. Additionally, the CPD published awareness-raising and educational materials on the rights of LGBTI people. In the draft of the CPD strategy for 2016-2020, the LGBTI community is considered as a high risk group and a chapter of the strategy will be dedicated to LGBTI issues.<sup>128</sup>CPD has recommended several amendments of Albanian legislation to bring it in conformity with the LPD. Successful recommendations are:

- (i) Amendment of the Labour Code, where SOGI is included as prohibited grounds for discrimination in employment, and where the burden of proof has shifted to the employer;
- (ii) Amendment of the Code of Administrative Procedures, where SOGI is included as prohibited grounds for discrimination and the burden of proof has shifted to the institution;<sup>129</sup>
- (iii) Amendment of the Penal Code, where SOGI is included as an aggravating circumstance in criminal offences.<sup>130</sup>

CPD also made recommendations for the further amendment of the Penal Code which were rejected. These were:

- (i) The criminalization of homophobic speech in electronic media (Article 119/a/b);
- (ii) The criminalization of threats on the grounds of SOGI (Article 84/a);
- (iii) The criminalization of the "incitement of hatred" on the grounds of gender identity (Article/265); and
- (iv) The omission of the term "homosexual relations" from the Penal Code (Articles 100-107).

In 2013, following complaints from the NGO PINK Embassy about a university textbook of forensic medicine that considered homosexuality to be an illness and immoral act, and which was being used in the teaching of students of medicine and jurisprudence, the CPD ordered the withdrawal of the textbook from all libraries, and recommended that the text should be revised. These recommendations were taken into consideration by the textbook authors. Also in 2013, following complaints by Pro LGBT and PINK Embassy, CPD commenced investigations into two public officials who were accused of misinforming the public, through visual media, by associating sexual orientation with paedophilia. The CPD considered that the senior public officials had wrongly misinformed the public and incited hatred against LGBTI community and urged the defendants to make a public apology. They did not make an apology, and the CPD sanctioned them with a fine.

CPD has reacted to the complaint of a citizen alleging discrimination by the media, saying that the media publicized the citizen's sexual orientation, and described them as a homosexual and a sex worker. The person suffered persecution and domestic violence because the media made their photograph and personal information public in newspapers and the television. The complainant was subsequently unable to obtain employment. After complaining to the state police about the harassment and domestic violence they had faced, the complainant was maltreated by the police, ridiculed and abused for being homosexual. The CPD classified the case as indirect discrimination by the media which had identified the complainant in relation to a presumed criminal offence. The CPD recommended that the media should refrain from portraying LGBTI people in negative ways in sensationalist news stories. During 2012-2013 CPD has investigated 12 complaints and conducted *ex officio* investigations about discrimination on the grounds of SOGI.

## CPD annual report and LGBTI Issues in 2015

In its 2015 report,<sup>131</sup> the CPD gave evidence of positive steps towards legislative amendments and protection policies for LGBTI people. The opening of a shelter for LGBTI youth victimized by family members and the 2015 parliament resolution were among the crucial milestones. However, despite the achievement of positive legal and policy changes, the report found that the on-the-ground situation for LGBTI people had not improved significantly. The CPD report provides evidence of complaints about denial of access to transgender people to public services and private bars and shops. CPD recommended that discrimination against transgender people on the grounds of gender identity should be legally addressed. CPD informed that healthcare and psychosocial services are insensitive towards LGBTI people. During 2015, the CPD undertook several *ex officio* investigations into cases of discrimination against LGBTI people in relation to employment, education, and housing and of homophobic hate speech. CPD handled one complaint of discrimination on the grounds of gender identity and four complaints of discrimination on the grounds of sexual orientation. CPD also published several awareness-raising materials including booklets on protection from discrimination in employment, in education, and in services and a summary of CPD decisions. CPD organized trainings and workshops in cooperation with PINK Embassy and LGBT Pro.

## The people's advocate (PA)

The People's Advocate (PA) is a constitutional institution, a person elected by parliament for a period of five years with the right to be re-elected. The PA is responsible for protecting the rights, freedoms and lawful interests of individuals from unlawful acts or irregular omissions by public administration bodies, or by third parties acting on their behalf. The PA was established in 1999 upon the approval of Law No. 8454/04.02.1999 "On People's Advocate". It is also a member of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and of the Regional Network of National Preventive Mechanisms against Torture. PA is mandated to inspect institutions and deal with citizens' complaints about alleged discrimination and ill-treatment by public institutions. PA is not a decision-making body and does not have executive powers. However, PA investigates complaints from individuals or vulnerable groups who are most at risk of discrimination by public institutions. PA has significantly contributed to the fight against inequality and discrimination of the LGBTI community. PA has worked with the media to increase public awareness of LGBTI issues. LGBTI citizens can access PA in seven regional offices without specific requirements for how complaints should be drafted. PA delegates any complaints related to discrimination to the CPD. PA makes recommendations to administrative bodies about the measures they should take for restoration of rights, or recommends filing a lawsuit. Where a criminal offence is suspected, PA can recommend a criminal investigation and prosecution. PA can bring cases to the Constitutional Court. PA can follow up on these recommendations and escalate cases to more senior levels where a response is deemed insufficient. The main remedy of the Advocate is the issuance of recommendations to stop the infringement.

## 2012 PA special report on LGBTI people<sup>132</sup>

In 2012 PA submitted a special report on LGBTI people to the parliament, providing evidence about human rights violations and discrimination against LGBTI people in Albania. This was a ground-breaking report in which for the first time an independent constitutional institution analysed the state of the rights of LGBTI people within national and international human rights frameworks. PA expressed concerns that in Albania transgender people lack full access to medical services, especially if they want to undergo a sex change and gender reassignment. The report states that even in legal terms it is unclear how the gender of a person, who has successfully performed a gender reassignment intervention, can be changed in the registry. In its 2012 report, PA recommended several legislative changes with regard to the human rights of LGBTI people. Recommendations on amendment of the Labour Code included inclusion of SOGI as a grounds for anti-discrimination in employment, and shifting the burden of proof to the employer. PA also recommended a series of amendments to the Penal Code, relating to:

- 1 Hate crimes on the grounds of SOGI (Article 50);
- 2 Hate speech on the grounds of Sexual Orientation (Article 265);
- 3 Prohibition of discrimination on the grounds of SOGI by a public official (Article 253);
- 4 Criminalizing the dissemination of homophobic materials (Articles 119/a/b).

In the area of Education, PA recommended that the MoES should include information on LGBTI issues in the curriculum and should train teachers on the rights of LGBTI people.

Most of these PA recommendations for legal amendments have been successfully taken into consideration, although implementation by public bodies has failed in many instances.<sup>133</sup> The report also urged the implementation of the LGBTI NPA 2012-2014 and in 2015 the parliament issued a resolution that commissioned the draft of LGBTI NPA 2016-2020. PA is appointed to monitor the implementation of the resolution. In addition, the report prompted a parliamentary hearing in 2014 led by the sub-commission on laws and human rights. On 17 May 2012, the international day against homophobia and transphobia, PA and PINK Embassy organized the first "Diversity Festival" in a public square. PA contributed to the Western Balkans Conference on LGBTI people held in Tirana, in May 2012. In the conference concluding statement it was noted that special attention should be paid to marriage or partnership for LGBT couples. Also in 2012, PA issued two press releases about the offensive language of a senior government official.<sup>134</sup>

## PA annual report 2015<sup>135</sup>

The PA Annual Report of 2015 reiterated the recommendation that the Family Code should be amended in relation to same-sex marriage (Article 163/164) and rights deriving from marriage such as: legacy, property ownership and inheritance, and procedures for ending of a partnership. The MoJ answered that it would consider the recommendation of PA, has not yet done so. In 2015, PA monitored the implementation of a parliamentary resolution "On protection of the human rights and fundamental freedoms of LGBTI people"; recommended that the MoSWY should protect the employment rights of LGBTI people; and urged the Labour Inspectorate to exercise control over private and public employers. In the area of education, PA recommended that the MoES should train teachers on LGBTI people's rights and work to prevent discrimination on the grounds of SOGI. PA monitored the MoES commitment to adapt the curriculum in order to incorporate information on SOGI issues and the rights of LGBTI people.<sup>136</sup> In relation to healthcare, the report found that the medical services were insensitive and unfriendly to LGBTI people. In order to increase public administration competence in addressing anti-discrimination, PA organized a special annual panel on the human rights of LGBTI people during the annual conference of 2014, which was moderated by PINK Embassy.

In conclusion, PA has advocated intensively for the rights of LGBTI people, and dealt with complaints related to violations of LGBTI people's rights. PA has taken an increasingly proactive role in monitoring the situation of human rights and state accountability for the issue.<sup>137</sup> Since 2011, PA has provided valuable recommendations on draft laws from a human rights perspective. PA has been working closely with LGBTI organizations through signed cooperation agreements. The financial sources of the PA have been limited. For this reason, the Commissioner for Human Rights of the Council of Europe,<sup>138</sup> European Commission<sup>139</sup> and the Human Rights Committee<sup>140</sup> called on the parliament and the government for stronger political and financial support to the PA. Further, ECRI has recommended that the PA should do more to address issues of structural discrimination by public authorities, for example in the areas of education, social services and policing.<sup>141</sup>

### 3.3 Parliament

The Albanian Parliament has approved many laws and has ratified all international conventions on human rights. The parliament elects government ministers, and independent national human rights institutions (NHRI) such as the CPD and PA. In addition, members of parliament review reports from the PA and the CPD. These reports are elaborated during parliamentary plenary sessions and proposals are sent to the Assembly or to the Council of Ministers to adopt the necessary measures. The CPD and PA special reports on LGBTI people have been reviewed by parliament, which influenced the draft of the parliamentary resolution and proposed legal improvements in favour of LGBTI people.

On May 7, 2015, the Albanian Parliament approved the resolution "On the protection of the fundamental rights and freedoms of LGBTI community".<sup>142</sup> This resolution promoted the development of a National Plan of Measures to protect the rights of LGBTI people (namely the LGBTI NPA 2016-2020) and urged the revision of the legal framework in the area of human rights, as part of the recommendations for the EU accession negotiations. It approved the recommendations of the PA in relation to amendments of the Labour Code, in compliance with Article 10 of Directive 2000/78/EC of the European Commission. It urged the state institutions to implement the Recommendation CM/Rec (2010)5 of the Committee of Ministers of the Council of Europe regarding measures to fight discrimination on the grounds of SOGI. The resolution called upon MoES to train teachers and other education workers to ensure better protection of LGBTI people; for effective prohibition of discrimination on the grounds of SOGI; and for greater institutional cooperation with LGBTI organizations in order to combat homophobia and transphobia. Additionally, the resolution called on the MoSWY to conduct inspections on the implementation of anti-discrimination provisions by employers, in order to guarantee their practical implementation. Further, the resolution nominated the PA to monitor observation of the fundamental and constitutional rights of LGBTI people in Albania. At the end, the resolution called for government support to civil society organizations.

The Parliamentary Sub-Commission on Human Rights has played an important role in drafting the resolution. The Sub-Commission made reference to the 2012 PA special report on the situation of LGBTI people when issuing the draft resolution that commissioned the design of the LGBTI NPA 2016-2020. The resolution encouraged parliament to adopt the necessary legal amendments set forth in the previous LGBTI NPA 2012-2014 as part of the recommendations for EU membership.

### 3.4 Government institutions

Central institutions such as the Council of Ministers, the Ministry of Social Welfare and Youth (MoSWY), the Ministry of Education and Sports (MoES), the Ministry of the Interior (Mol), the Ministry of Justice (MoJ) and the Ministry of Health (MoH) all play a role in the protection of human rights and anti-discrimination policy. These institutions are in charge of implementation of the Law on Protection against Discrimination (LPD). The LPD obliges these institutions to raise awareness and establish policies in order to encourage equality. The Council of Ministers is charged with issuing subordinate legal acts to support implementation of the LPD. LPD requires the Council of Ministers and the Minister of Education to take positive measures in order to fight discrimination in connection with the right to education. The LPD charges the Council of Ministers, MoSWY and Mol to implement equality and anti-discrimination principles in the area of employment.

Among other things, the MoSWY is in charge of guaranteeing equal participation in employment, social services and equal opportunities. It is responsible for taking measures to fight discrimination in connection with the right to employment. It develops state policies in the fields of social policy, social inclusion and anti-discrimination. MoSWY has the mandate for steering legislative reform and bringing equal treatment legislation in line with the EU acquis. It is responsible for both implementing and coordinating the LGBTI NPA 2016-2020. The MoSWY department dealing with the rights of LGBTI people is the Directorate of Gender Equality and Social Inclusion (DGESI).



### 3.5 The judiciary

According to the LPD, the right to initiate a court procedure belongs to an individual, who may delegate this right to a representative. Any person or group of persons who claims to be a victim of discrimination can file a claim to the court. A lawsuit can be filed regardless of exhausting the CPD administrative procedure. Having made a complaint to the CPD is not a condition for being able to sue in court or for referring the case to the criminal prosecution bodies. The CPD can represent a complainant in a civil case, in which case the CPD opinion becomes part of the court decision. Organizations with a legitimate interest can submit a claim or represent a person or a group of persons before the court. The indemnification decided by the court includes the correction of any legal violations and their consequences. In Albania, there are no judges who are specialized in adjudicating compensation cases arising from discrimination.<sup>143</sup> Complaints about violations of human rights and fundamental freedoms are addressed through administrative and judicial processes. Victims of domestic violence and people who receive social security benefits can receive legal aid for their case. Although the burden of proof falls on the public administration, the complainant should be able to supply evidence relating to the alleged discrimination.

### 3.6 Civil society<sup>144</sup>

LGBTI civil society organizations are a crucial component of the equality and human rights architecture in Albania. There are four active LGBTI people's organizations: Alliance LGBT, Pro LGBT, PINK Embassy and OMSA. They voice LGBTI people's needs and address individual and group discrimination and human rights violations. LGBTI organizations act as advocates for LGBTI people. They speak on their behalf and represent them in public institutions. They play a valuable role as watchdogs on the implementation of policy and legislation. They have a strong partnership with the human rights and equality statutory bodies of the PA and CPD. Through advocacy and lobbying they have influenced the amendment of laws and policy design in the area of human rights and anti-discrimination for LGBTI people. They have been very active in raising awareness and promoting LGBTI human rights. Other human rights organizations have been supporting the cause of LGBTI people as well!<sup>145</sup>

The Human Rights Group role was vital in drafting the Law on Protection against Discrimination (LPD) by including SOGI amongst the prohibited grounds of discrimination. Human Rights Defenders Albania has provided an unconditional support to LGBTI people organizations by training two of them on litigation strategies. Amnesty International has supported LGBTI people's organizations by explicitly including instances of systematic violence against LGBTI people in their reports. Peace Corps volunteers have trained local administration officials in several municipalities together with LGBTI organizations.

LGBTI people's organizations have been very active in fundraising and have succeeded in implementing projects on democracy, good governance, and rights of LGBTI people. Their funding comes primarily from foreign aid agencies. They have also had support from European LGBTI organizations such as ILGA Europe and COC Netherlands. Besides capacity building activities with young LGBTI people, the organizations have organized many public awareness-raising activities. They have encouraged the LGBTI community to come out in public to combat fear and prejudice. The most striking awareness-raising events have been the Pride parades, public gatherings in the capital squares, and Festivals of Diversity all organized around the IDAHOT day on 17<sup>th</sup> May.<sup>146</sup> The Festivals of Diversity are held in Tirana, and have been attended by major public institutions and diplomats.

The LGBTI people's organizations have developed programmes aimed at supporting the rights of LGBTI people, which include awareness-raising campaigns and media and communications work. In addition to social media and websites, all organizations have built very fruitful cooperation with the mainstream media. Pro LGBT has installed an online media *historia-ime* which is an online venue where LGBTI people can come out and tell their stories. The brutal police mistreatment of a transgender person was posted by Pro LGBT onto social medial platforms, and was published in the mainstream PANORAMA newspaper as well. The organizations' activities are helping to ensure that the public is becoming more aware of the situation of LGBTI people in Albania.

Although the activities of the LGBTI people's organizations are concentrated in Tirana, they are trying to reach out the LGBTI community in other parts of Albania and to help them develop informal organized social groups to support local advocacy work. They have organized frequent trainings in other parts<sup>147</sup> of Albania in order to meet and organize young LGBTI individuals and support them to become more active in their localities. In central and southern Albania there are some effective groups already operating. In northern Albania the situation is more difficult due to resistance within the traditional culture there. LGBTI young people who are victims of domestic violence are being sheltered at the STREHA centre which was opened in Tirana by Pro LGBT and Alliance LGBT. The organizations are considering more effective ways to tackle domestic violence by working with the law enforcement authorities and providing mediation for LGBTI people and their families.<sup>148</sup>

## Capacity of LGBTI civil society organizations

There are four LGBTI organizations in Albania: Alliance LGBT, Pro LGBT, PINK Embassy and OMSA.<sup>149</sup> Alliance LGBT has established itself as one of the main referral points for members of the community since its registration in 2009. It undertakes social and community centre activities, advocacy and research, culture, media and sports. It envisions a free, open and equal Albanian society that embraces difference and that is inclusive towards individuals with different sexual orientations and gender identities. The office functions as a social centre and provides a safe space for young LGBTI people aged between 18 and 30. It offers psychosocial support, health and legal counselling for LGBTI people, as well as support to victims of hate crime and harassment.<sup>150</sup> Alliance LGBT is working to raise awareness with the wider community and the general public about the challenges that LGBTI people experience. It has a particular focus on reporting discrimination, advocating for change to discriminatory laws, and is now involved in implementation and monitoring of the National Plan of Action (2016-2020). Alliance LGBT has focused its research on discriminatory legislation and practices. It also organizes street and media events with the aim of raising awareness among general public about LGBTI issues, including documentary film-making.



Photo ©UNDP: LGBTI activists in Albania meet with the USAID representative

Pro LGBT was established in 2011 in Tirana, and has helped to raise awareness regarding LGBT issues, at both national and international levels. It focuses primarily on culture and the media, but also undertakes community work and advocacy. Its news portal [Historia-ime.com](http://Historia-ime.com) addresses LGBTI people's rights and other human rights-related topics in Albania. Pro LGBT also works with national and international media to raise awareness about and improve their coverage of LGBTI issues. In December 2014 Pro LGBT, in partnership with Alliance LGBT, opened the first residential shelter for homeless LGBTI young people in Albania. This is among the first services of this type to be provided in South-East Europe. Since May 2012 Pro LGBT has been supporting the organization of major Pride Events such as Tirana Gay (P)Ride,<sup>151</sup> and the awards event "Ally of the Year."<sup>152</sup> Pro LGBT has been working intensively with political parties to mainstream LGBTI issues in their political agenda. It offers legal support to LGBTI individuals through legal counselling and strategic litigation, and is working closely with EU and US institutions on monitoring LGBTI people's rights and addressing the topic in all human rights reports and in Albania's progress reports for the EU.



Since its creation in 2009, the main focus of PINK's work<sup>153</sup> has been to mainstream the LGBTI cause in Albania through awareness-raising campaigns and regular media and communications work. On May 17th 2010, PINK held the "Festival of Diversity", the first outdoor public LGBTI event to be held in Albania. During its work, PINK has developed cooperation with institutions such as the Albanian Parliament, the People's Advocate/Ombudsman, the Commissioner for Protection from Discrimination, the Ministry of Social Welfare and Youth, the Municipalities and others. The organization has created a network of allies within civil society, including a number of organizations working for the rights of women, children, and people with disabilities and other minorities. PINK works and lobbies for different issues such as legal amendments, action plans and measures, has served as a research and information centre for issues related to LGBTI people in Albania and abroad. It has done its best to create an emancipating and progressive environment for the recognition of the rights of LGBTI people in the country. Since 2014 PINK has been working to host an LGBT Pride in Albania, on May 17th, as well as to advance the rights of LGBTI people through policies at central and local level, strengthening capacities, lobbying and advocacy, training programmes, etc.

OMSA is a relatively young organization, established in 2013. It focuses mainly on community work and advocacy. OMSA has conducted a series of workshops with parents and relatives of LGBTI people.<sup>154</sup> The aim of this was to provide reliable information, and to support families in their process of acknowledging, accepting and coming out as families with LGBTI members. OMSA started in 2016 as a project addressing the political participation and representation of LGBTI people in Albania. The main aim of the project has been to mainstream issues related to LGBTI people into the political arena prior to the 2017 general elections. Today, OMSA identifies itself as an organization that uses educational activities and awareness campaigns to support the human rights of vulnerable groups in Albania.

All organizations are working as human rights defenders. Their work is focused on culture and the media, followed by community work and advocacy, research and awareness raising. They are building partnerships at local and national levels, as well as within the Balkans region. They have conducted projects and activities in the fields of advocacy and education; they have worked to combat homophobic and transphobic hate; they have helped to empower LGBTI communities, and provided practical support in areas such as housing, etc.. They work closely with international representatives in Albania, mainly USAID and the EU Delegation, in order to utilize the available opportunities within the EU integration process. They have a relatively developed capacity to create social change. They do however face some major challenges in relation to their financial and operational stability, leadership and governance, limited human resources, limited expertise in monitoring and evaluation, and programme continuity.<sup>155</sup>

## Strengths

The organizations have designed programmes to support LGBTI people. In particular they have developed campaigns and media communications to support broader public understanding of LGBTI issues. In addition to working with social media and websites, all of the organizations have built very fruitful cooperation with the mainstream media. Pro LGBT has created the "historia-ime" website, an online venue where LGBTI people can come out and tell their stories. The mainstream media can use the site to identify and publicize LGBTI human rights violations. The brutal police mistreatment of a transgender person was posted on Pro LGBT's social media site, and also published in the mainstream PANORAMA newspaper. This helps to build public awareness about LGBTI people and helps to counter the popular myth that "there are no homosexuals in Albania". Since 2010, the IDAHOT day has been transformed in a festive week culminating with the (P)Ride parade with bicycles – an original solution developed by Pro LGBT and Alliance LGBT. Many young people and representatives of foreign institutions have joined the ride.

LGBTI organizations have undertaken hugely important advocacy work with public institutions, especially those working in the area of human rights. The leaders of LGBTI organizations acknowledge that they cannot deliver meaningful change for LGBTI people in Albania unless they work together with each other and with public institutions. To strengthen legal and institutional support for protection of the rights of LGBTI people, they have been working closely with the national human rights institutions. Through their common efforts they have advocated for changes to the legislation in the Criminal Code, Labour Code, and the Administrative Procedure Code which have already been implemented.<sup>156</sup> They worked extensively with the PA, CPD and MoSWY to amend the Family Code, albeit without success to date. In 2014, for the first time, they participated in a hearing session of the Parliamentary Human Rights Sub-Commission on the rights of LGBTI people in Albania. The conclusions of the commission became the 2015 Parliamentary Resolution on LGBTI rights in Albania, which in turn resulted in the 2016-2020 NPA.

LGBTI organizations were very involved in developing the 2016-2020 NPA, contributing to the writing of the NPA goals and objectives. They had also been active during the previous NPA 2012-2014, signing bilateral agreements with the MoSWY and MoES to train public sector professionals on SOGI issues and the human rights of LGBTI people. Many training sessions with health, education, police and local administration sector professionals were organized throughout Albania over a period of five years. All the PA and CPD awareness-raising activities in municipalities and schools are developed in close cooperation with LGBTI organizations. LGBTI organizations have conducted research on LGBTI issues and presented them to the public, to policy makers and to practitioners. In 2013 Alliance LGBT and PA published the first report on access of LGBTI people to healthcare. In 2015 Alliance LGBT published a sociological qualitative study on the response of health and educational professionals to LBT women's needs. In 2016 PINK Embassy published two studies on public officials' perceptions in relation to LGBTI people, and on discrimination and bullying towards LGBTI students in schools. The study results revealed the challenges of LGBTI people in Albania and the high level of discrimination they face. The studies are being used by organizations and public institutions to design friendly policies towards LGBTI citizens in the areas of education, health and other public services.

LGBTI organizations have built an extensive network with other civil society organizations working on human rights, including organizations working with women, Roma people, ethnic groups, people with disabilities, etc.<sup>157</sup> The intersectionality of gender and sex are being increasingly taken into consideration by LGBTI organizations and others, with many efforts to make this issue more visible to the state authorities. In 2016 Alliance LGBT was intensively involved with situation of transgender people, and in many cases has directly assisted them to renew official papers or to find refuge from domestic violence.<sup>158</sup> PINK Embassy issues annual reports detailing human rights violations faced by LGBTI people, and these are being made available to the public and to the PA, CPD and the police. Currently, the organizations are working on a monitoring strategy for the 2016-2020 LGBTI NPA in order to push the government to implement and resource it effectively. The LGBTI organizations have membership status within Balkan and European LGBTI organizations such as ERA and ILGA Europe. Since 2014, they have been planning to organize the first massive Pride Parade in Albania.

All the NGOs are involved in “watch-dog” activities to monitor discrimination against LGBTI people across different sectors, including within the family, community, central and local institutions and public service sector and law enforcement. They are the main watchdog of the LPD and have filed many complaints to the CPD over LGBTI discrimination by politicians and public officials. They are working on the legal recognition of gender identity and gender expression in Albania, focusing on the legal definition of the terms and legislation development in this area which is totally missing. Besides supporting the development of laws that prohibit discrimination against LGBTI people, LGBTI organizations have a key role in monitoring the implementation of anti-discrimination law within institutions and providing training on LGBTI issues to public sector workers. The organizations have developed training materials and signed mutual cooperation agreements with the relevant ministries and municipalities. Students of Tirana, Korça, Vlora and Shkodra Public Universities have received awareness-raising and practical information about LGBTI people and SOGI, through dozens of seminars organized by LGBTI organizations.

## Gaps and limitations

The LGBTI organizations in Albania are all relatively “young”, operating for just five years in the human rights sector. The members and leaders of these organizations are young people full of enthusiasm and idealism. They are trained by LGBTI organizations from abroad. They have worked to defend human rights, to build capacity, to design their organizational strategies, to stick to their objectives and to increase their visibility – often on voluntary basis. These organizations face considerable challenges. As for many civil society organizations, they face scarcity of funds, with their work more often being supported by foreign aid agencies. The Civil Society Agency, which was created to lend financial support to CSOs in Albania, has to date only funded one LGBTI project, the shelter of LGBTI victims of domestic violence.

Human resources are another identified area of weakness, closely related to funding problems. Many of the staff in the LGBTI organizations work as volunteers. However, to deliver their activities in a sustainable and professional way the organizations need some paid executive staff, including administrators, financial personnel, project managers and coordinators. The organizations do not have sufficient financial means to fund these positions on full-time basis. The financial model for the organizations is project driven. The organizations' time is often taken up with project writing and endless grant applications – reducing their available time for advocacy and other activities. The organizations can only afford to hire relatively inexperienced staff members. The funds they have for personnel do not allow recruitment of more expensive specialized experts. In the absence of a professional staff, the leaders of organizations spend a lot of time doing their job and building the capacity of the junior staff. The nature of project work means that staff are often employed on fixed-term contracts, leading to high levels of staff turnover. The leaders of organizations are also dependent on very limited organizational resources for their own salaries. Organizations have set up advisory boards with people volunteering to work for human rights on a short-term basis, but the advisory boards do not convene on a regular basis as members of the board are employed elsewhere and the organizations have insufficient financial means to cover the operational cost of board meetings.

The unwillingness of government institutions is another factor which is impeding the advancement of the human rights of LGBTI people in Albania. LGBTI organizations spend a lot of time in meetings with representatives of central and local government institutions to convince them to apply the legislation which is in place. Often, this work is not successful. The time they spend negotiating with public officials could be spent in other activities. The LGBTI organizations lobbied the Prime Minister's office to set up the working inter-institutional working group in November 2016. This group will be responsible for the implementation of the LGBTI NPA 2016-2020.

## **4.Challenges in the social and cultural environment: an overview**

### **4.1 The binary gender system**

In Albania, rigid gender stereotypes and cultural expectations mean that men and women are expected to conform to rather inflexible ideas of masculinity and femininity in their behaviour and appearance.<sup>159</sup> Deviations from these binary gender stereotypes are strongly discouraged and considered by some to be morally wrong. As a patriarchal society, there are high levels of social disapproval for any form of sexuality falling outside of heterosexual norms. Surveys of homophobia reveal that Albanians hold very negative perceptions of LGBTI people.<sup>160</sup> Homophobia is fuelled by ignorance and a lack of interaction with LGBTI people, with 92 percent of survey respondents indicating that LGBTI people are invisible to others. Attitudes amongst the general population towards LGBTI people's rights to marriage and family life are generally very conservative. Culturally-defined roles for men and women play a large part in determining people's attitudes towards marital rights for LGBTI people, with low levels of acceptance of same-sex marriage. Attitudes towards LGBTI people's rights to become parents are even more intransigent than those on marital rights,<sup>161</sup> with men being particularly disapproving. Public officials express a slightly higher acceptance of same-sex partnerships than the general population.<sup>162</sup>

The opinion of the general public about violence towards LGBTI people is far from the reality.<sup>163</sup> The difficult family situation in which LGBTI people live is almost unknown to the rest of the community. Parents of LGBTI people tend to keep their children's status secret in order not to "lose their honour", and they often force their children to suppress their LGBTI identity.<sup>164</sup> Parents find it difficult to talk with children about their sexuality, as a result of which LGBTI people tend to seek information about sexuality from their peers and the internet. Sometimes families break off relations with the LGBTI person, or force them to move away from home.<sup>165</sup> Physical violence is considered to be an effective form of discipline and is pervasive. One in three LGBTI people reported that they had been victims of domestic violence. In Albania the perception that LGBTI people are sick and in need of a medical cure is very widespread <sup>166</sup> among both the general public and health professionals!<sup>167</sup>Public opinions about transgender people are worse, because of a perception that "they have chosen to be deviant" while lesbians and gays "are born" this way. Lesbians and transgender people report a heightened level of domestic violence, but they do not sue their family members, undermining any efforts to tackle the violence. Fathers are especially likely to use violence with their LGBTI children, while mothers are more likely to ask LGBTI children to change their behaviour. LGBTI people who have told their parents about their SOGI have in some cases been beaten and abandoned. Young LGBTI people may use drugs to help them cope with domestic violence; or they may decide to leave home. In order to respond to the challenge of domestic violence towards LGBTI people, Alliance LGBT and LGBT Pro have opened the first residential shelter for victims of domestic violence.

## 4.2 Discrimination by public officials and administrative bodies

Public administration officials often hold negative prejudices towards LGBTI people and stigmatize their appearance and behaviour. A study of public administration attitudes towards LGBTI citizens in 2016 indicated that there is a high level of homophobia among local administration employees.<sup>168</sup> Although LGBTI people are service users like other citizens, 70 percent of service providers in six municipalities said they did not know any LGBTI people. Information about LGBTI was inadequate and based on gender stereotypes. The employees perceived LGBTI people as deviant and thought they needed to be cured, medically and psychologically. Only 30 percent of employees were trained on SOGI and the human rights of LGBTI people, training which was mainly provided by LGBTI organizations. The opinions of employees who reported having had contacts with LGBTI people were not significantly different: level of knowledge about LGBTI issues and contact with LGBTI people had no impact on employees' prejudices. A quarter of employees believed that LGBTI people should use services separately from other citizens. These ideas are very problematic since they could be used to justify social exclusion and institutionalization of segregation for LGBTI people as service users. The widely-held view amongst public officials that LGBTI persons are deviants is deeply damaging to the dignity, well-being, human rights and fundamental freedoms of LGBTI citizens. Such attitudes fuel moral panic and public hatred towards LGBTI people and pave the way for exclusionary and discriminatory practices.

## 4.3 Violence against LGBTI people

Gender norms are very persistent. Non-conformity with mainstream gender norms by LGBTI people can provoke verbal abuse, physical attacks and harassment from family members and in public places. There is no safe place where LGBTI people know that they can be free from fear of violence and abuse, except for in each other's company and when receiving support from LGBTI people's organizations.<sup>169</sup> Homophobic speech prevails in all parts of society, ranging from the derogatory and coercive language of young people in schools to degrading comments made by politicians in the media. High levels of homophobia cause fear of persecution and insecurity amongst LGBTI people. As an activist and human rights defender explained in the Parliamentary Sub-Commission on Human Rights in 2014, "LGBTI victims do not report homophobic crimes because of fear of extortion and lack of trust in the police officers who insult them instead of defending them".<sup>170</sup> In a 2014 report, the United Kingdom Home Office reported that public officials make derogatory homophobic statements against gay and lesbian people in Albania. Police fail to take protective measures when requested to do so by LGBTI complainants, and in some instances detain them instead.<sup>171</sup> To try to tackle homophobic attitudes and discrimination towards LGBTI people amongst public officials, in 2013 the Council of Ministers adopted a Code of Ethics stating that ministers should withhold from any kind of discrimination on the grounds of SOGI and gender expression.<sup>172</sup> In 2016, the parliament proposed a Code of Ethics that states that derogatory language and insulting comments by parliamentarians are prohibited.<sup>173</sup>

## 4.4 The situation of lesbians

Lesbian women are less visible than gay men in Albania, because they suffer a heightened level of violence from close family.<sup>174</sup> Violence against women in Albania is a pervasive practice, and lesbians are not exempt from this. On the contrary, they face double discrimination and violence, as a result both of their gender and their minority sexual orientation.<sup>175</sup> This double discrimination means that lesbians are particularly vulnerable, often becoming invisible and/or dependent.<sup>176</sup> Due to the widespread incidence of domestic violence, Albania has reinforced legal provisions and judicial procedures against the perpetrators.<sup>177</sup> Domestic violence, sexual harassment, injuries caused from domestic violence, suicide motivated by violence, forced sexual relations and domestic violence on the grounds of SOGI are all criminalized by the Penal Code.<sup>178</sup> Nevertheless, the prevalence of violence against women in Albania continues to be high and is not appropriately punished. Lesbians are among the frontline victims of domestic violence and as a consequence they may often attempt suicide to escape their unbearable family circumstances. A fear of violence and ostracism keeps them hidden in the closet. In the 2010 report on enlargement, LGBTI organizations informed ILGA Europe that lesbians have to hide their sexual orientation in Albania.<sup>179</sup> The situation has not changed significantly and lesbians are still invisible within the domestic sphere and public, because of fear of violence. Domestic violence remains an issue of concern for lesbians.<sup>180</sup> In addition to facing domestic violence, lesbians are often isolated at home and prevented from having physical or virtual contact with friends. Their communication and movements are strictly controlled to prevent them from having contact with lovers. Their economic resources are cut to prevent them from escaping and to act as a means of control. A young lesbian woman told in the interview how she became exhausted by domestic violence within her family and decided to escape.<sup>181</sup> She left home in total secrecy and went to the shelter (*Streha*) in Tirana, with the support of LGBTI organizations. She reported frequent episodes of domestic violence against her from her parents:

*"I am in love with a girlfriend, but love between women is unthinkable for my parents. I was caught out when talking to my girlfriend on the phone. My father heard me and became furious, my mother mortified. My father yelled at me, spitting on my face and repeatedly saying that I had shamed him. Trying to defend myself I denied that I had a girlfriend, but I was unable to convince them. From that day on, I was locked in the house and my parents barely talked to me. After weeks of solitude and confinement, my mother came to tell me that they had found a husband for me. I told her that I would kill myself and I refused to talk and eat. My mother felt worried and released me, and gave me some money for transport to Tirana. Now I am sheltered at Streha and I have found a job. Still, I am terrified by the idea that my father can discover my new place and I am constantly vigilant, I have become paranoid. I would love to go abroad and have a decent life with my girlfriend, free from violence and stigma."*

In the 2011 report on the LGBT situation, it was observed that lesbians face strong pressure from their families to marry men, because marriage is a social obligation for women.<sup>182</sup> Under this social pressure, and in order not to bring shame on the family, they often agree to marry whilst simultaneously continuing to have relationships with women. In 2015, LGBT Alliance reported 15 cases of domestic violence involving psychological and physical violence from parents who discovered that their child was gay or lesbian.<sup>183</sup> Violence in public is targeted against lesbians when they make their sexual orientation visible. They are insulted, pushed away and thrown out of bars. They frequently do not report instances of domestic and public violence to the police, because of the fear of being stigmatized and insulted by police officers. Because lesbians do not report violence, and because police officers do not react swiftly in response to domestic violence, acts of violence against lesbians remain unprosecuted and unpunished. Legal sanctions on domestic violence are not enforced in practice. Consequently, violence against lesbian women is not addressed. Lesbians face prejudice, discrimination in healthcare and educational institutions as well, because of the low level acceptance of LGBTI people by health and educational service providers.<sup>184</sup>

#### 4.5 The situation of gay men

Men attracted to men are not considered to be 'real' men in Albanian culture; instead, these men are viewed as *feminized* passive men attracted to active men, based on a concept of passive and active sexual partners. In public surveys, men express more homophobic feelings than women. They consider gay men to be betraying their privileged social status as men in a patriarchal society.<sup>185</sup> In a study conducted in 2010 on homophobia in Albania, LGBTI activists expressed high levels of concern about the powerful impact of patriarchal norms on social mores. They considered that the prevailing gender stereotypes impose traditional masculinity and strong demands on men to behave in traditionally 'straight' masculine ways. This in turn means that male homosexuality is perceived to be more provocative than female homosexuality.<sup>186</sup> Consequently, gay men are particularly subject to internalized homophobia and homophobic harassment. Boys internalize strict heteronormative imperatives which prohibit femininity in appearance or behaviour, as well as homosexual behaviour which is deemed to be feminine.

Gendered cultural practices are very persistent and cause harm to gay people because they provoke verbal abuse, physical attacks and harassment in the domestic context and in public places. In 2011, a gay couple reported physical violence and death threats from one of their brothers to the police. However, instead of receiving protection they were subject to discrimination by the police officers who insulted them because of their sexual orientation. The couple was kept in a cell for 10 hours and considered to be guilty for bothering their families and neighbours. After their complaint, PINK Embassy reported the incident to the CPD which opened an investigation.<sup>187</sup> In 2013, a 19-year old student reported that he had been evicted from the apartment he was renting because his landlord found out he was gay.<sup>188</sup>

Because of this widespread prejudice and homophobia, most gay people refrain from coming out to their family, at school or in the workplace, and live in secrecy. The high levels of homophobia mean that gay people fear persecution and insecurity.<sup>189</sup> Gay people who dare to be open about their sexual orientation risk violence from the public and rejection from their families and friends.<sup>190</sup> Homophobic speech is widespread in all parts of society, ranging from abusive or coercive language in schools to degrading comments of politicians in media.<sup>191</sup> The level of homophobia among the general public is exacerbated by ignorance and the public's lack of interaction with gay people. Public information about gay people is inadequate and based on gender stereotypes. Of particular concern is the commonly shared opinion that gay people are somehow not equal to straight people. This creates a very intimidating and unfriendly environment for gay citizens.<sup>192</sup> Their social devaluation denies them their collective life and legitimizes isolation.



## 4.6 The situation of bisexual people

Bisexual people are not organized into any specific social group or organization. They are included within those LGBTI people's organizations that advocate for the rights of LGBTI people in general. Bisexual people have very little space for representation and political activism, since they are considered either as deviant heterosexuals or as not-real gays. The fact that they have sexual preferences for both sexes compromises their position in the eyes of the gay community. Bisexual people are often confused with heterosexuals because they combine heterosexual and same-sex relationships. Their sexual behaviour means that they often face mistrust both from the gay community and from heterosexual people as well. Bisexual people declare that their sexual preferences create conflicts for others in being able to understand their sexual identity. For example, a young bisexual man<sup>193</sup> stated that he had been rejected by his gay friends because he had sexual relations with women as well:

*"My gay friends do not understand my preference for women and men and do not trust me, saying that it is impossible to be hetero and gay at the same time. To them, I am a repressed gay or a perverted heterosexual. I have not come out as bisexual to my parents; it would be a shock to them knowing that their son has loving feelings for men. If it is hard for my gay friends to understand me, it is impossible to my parents to accept my bisexual preference!"*

The assumption that bisexual people are promiscuous flows a traditional construction of sexuality as binary, with heterosexuality or homosexuality as the only valid forms of the sexual orientation.<sup>194</sup> The discussion with young gays and lesbians confirmed that assumption.<sup>195</sup> To them, bisexual people cannot be placed within this binary construction because they have sexual relationships with both men and women. The assumption that bisexual people are more prone to heterosexual than homosexual relationships is reinforced if they choose to get married. Since the only available legal option is marriage between a man and a woman, some bisexual people choose to exercise their right to marry their partner of the opposite sex. As the young bisexual man affirmed, he could only choose to marry his female partner, because this was the only option legally available to him:

*"I am married to a woman because of strong pressure from my parents and close family. They were worried that as I grow older I would drop the idea of being married and I would have no children. Marriage restricted my liberty to go out with men, as I was afraid of being discovered by my family members or in-laws. I migrated to Italy to be able to lead the life I wanted as a bisexual. If I stayed here, I would be constantly persecuted by the idea of being caught in a homosexual relationship with a man and I would face harsh punishment by my people and in-laws. I would lose face and the family honour."*

Based on interviews with some gay men and lesbians, there is a perception that bisexual people do not support marriage equality as they have the option of marrying someone of the opposite sex. Additionally, because some bisexual people choose the traditional form of marriage, there is a perception held by gay people that bisexual people contribute to the legitimization of opposite-sex marriage as the only valid form. This may not be true, since bisexual people currently have no other formal choice but to use the legal means available for marriage. There are strong family expectations that married people should have children, and bisexual people who wish to become parents use the formal legal dispositions of the Family Code.

## 4.7 The situation of transgender people

Transgender people face intense levels of violence because their appearance does not conform to gender expectations. A report on human rights violations of transgender people reported high levels of discrimination against transgender people in schools, bars and streets.<sup>196</sup> Many homeless transgender people are forced into street sex work to make a living, and because sex work is criminalized they are at high risk of being exploited. Because the police do not provide protection, transgender sex workers are subject to rape and other forms of brutal sexual violence, stalking and sexual harassment. In interviews with transgender people, they reported a high level of threats and physical violence from unknown people.<sup>197</sup> Three MtF Trans people were raped by men and persecuted so that they would not tell the police. In 2011, out of 10 events of physical violence against LGBTI people, eight were perpetrated against transgender people.<sup>198</sup> In 2009, a transgender woman was stabbed with a knife by a client pretending that was shocked to reveal that the sex worker was not "a real woman". To address the risky situation of sex-workers in Albania and following the CEDAW Committee recommendations in the 2010 periodic report, in 2012 the CPD recommended the decriminalization of sex work.<sup>199</sup>

In 2015, the High Court asked the Constitutional Court to decriminalize sexwork, striking out Article 113 of the Penal Code on prostitution. To support the High Court, the CPD reiterated her opinion in 2015,<sup>200</sup> but the Constitutional Court decided to preserve Article 113 and refused both the High Court request and the CPD opinion.<sup>201</sup> The Penal Code reinforces the punishment for sex work, equalizing the sanctions for sex workers and clients. The imprisonment of transgender sexworkers goes beyond discrimination.

Transgender people experience extreme difficulties in finding a home, as some landlords refuse to lease homes to them and people refuse to live near them. In 2011, five transgender people living in an abandoned house were put at risk of death because the house was set on fire by a group of transphobes at 4am when most people in the neighbourhood were asleep.<sup>202</sup> Neither the municipality nor the MoSWY subsequently provided them shelter after they were forced out of their home because of the arson attack. In its 2011 report, Trans-Gender Europe (TGEU) stated that although Albania has adopted the Law against Discrimination, the life and dignity of the transgender community continues to be at risk.<sup>203</sup> In no case have the police registered these lethal assaults against transgender people as hate crimes. On the contrary, police officers have been equally rude and discriminating towards the transgender people. In 2016, the leader of the Alliance LGBT assisted a transgender person to get an Identity Card. She reported the discrimination she and the transgender person had faced from the local administration as well as ill-treatment by the police who told them they looked like terrorists:

*"The municipal employee denied our request for A.'s ID card, and we had to redo it. One of the employees called A. to sign, and stood a metre away from her, as if she was disease itself. She looked at her with a twisted face, and told her to write her name; A had told her several times that she didn't know how to write, because she never went to school. When we left the municipality, the police stopped us asking for our ID cards. When A. and my colleague were trying to make him understand that A. doesn't have an ID which was the reason for going to the municipality, the policeman asked me in a rude way whether A. was a man or woman. The other policeman continued to shout at A. although she clearly said she had lost her ID card. Then the policeman screamed: 'Come with us to the police station! Out of the car!' Another policeman told us that they stopped us because they were searching for terrorists.... During years of activism, I've been spit on, menaced, insulted, but never been more humiliated than by police supposed to protect, but terrorizing instead."<sup>204</sup>*

Healthcare professionals discriminate against transgender persons as well. Being frequently attacked and sometimes beaten to death, transgender people are sent to hospitals or emergency centres for first aid. There, they are often left without help or medical treatment. Denial of healthcare to transgender people is a frequent practice. In 2014, the leader of Alliance LGBT reported to the Parliamentary Sub-Commission on Human Rights that: "When I send transgender persons to the hospital because of serious health problems, instead of offering help the doctors say: "Why don't you let them die?"<sup>205</sup> The discrimination against transgender people amounts to collective persecution. Their situation is often reported by LGBTI organizations. In the 2013 shadow report for the Second Universal Periodic Review (UPR), the LGBTI organizations in Albania highlighted that transgender people remain the most discriminated and vulnerable group amongst the LGBTI community in Albania.<sup>206</sup> People from the transgender community often express a wish to leave the country because they feel discriminated against on multiple grounds.

## 4.8 The situation of intersex people

Information about intersex people in Albania is almost non-existent. There are no formal organizations of intersex people. Like LGBTI people in general, intersex people are not mentioned in any law or strategy related to healthcare. In formal terms, the legal basis that regulates the healthcare of citizens is available to intersex people as well. In practice, little is known about intersex people, and medical staff are not very familiar with intersexuality. Intersexuality is pathologized and seen as a disorder of sex development, rather than as a *difference* of sex development.<sup>207</sup> Surgical and hormonal interventions with intersex children usually take place at an early age. The child is not considered to be legally able to decide whether to have medical interventions, due to restrictions on the legal capacity of minors. Parents decide upon the sex and bodily integrity of the child. The Law on Healthcare (Article 6) states that the affected person should give informed consent for health interventions, but intersex people are neither informed nor asked. The Law on Reproductive Health (Article 9) states that medical interventions related to reproductive health should be undertaken only with the consent of the person involved, and that every individual has the right to defend their personal reproductive capacity (Article 17). Moreover, the LPD prohibits discrimination against intersex persons and assumes that the state has the obligation to protect them on an equal basis with others. These laws recognize the need for informed consent for medical interventions, and the right to the body integrity of intersex people, but these are not respected. Surgical and hormonal interventions undertaken with intersex persons without their consent constitute a breach of their health rights.



In Albania it is common practice to subject intersex children to unnecessary surgical and other procedures in order to try to make their appearance conform to binary sex stereotypes. Based on information about intersex people given by medical staff of the Tirana University "Mother Teresa" Hospital Centre, parents send intersex children to hospital for surgical and hormonal procedures. These children are subjected to hormonal therapy and surgery to fix their "sex" and health-related problems. These procedures are often irreversible and can cause permanent infertility, pain, incontinence, loss of sexual sensation, and lifelong mental suffering, including depression.<sup>208</sup> Medical staff accounts indicate that these interventions are frequently justified on the basis of cultural and gender norms and discriminatory beliefs about intersex people. An interviewed medical worker stated that:

*"Parents should decide about the sex of the child, because they are legally responsible, while the child has no legal capacity. It is not wise to wait for the child to grow up and ask for his/her consent on gender affirmation, because the child has to belong to one of the gender categories, male or female, before adulthood. The person cannot socially be a girl and a boy at the same time, although s/he may have undifferentiated anatomical sexual characteristics of both sexes. It is to the benefit of the intersex person to have a fixed gender from early childhood, in order to join a gender group; otherwise the person may unnecessarily suffer identity confusion and mental health problems."*

Medical interventions for intersex children are not solely undertaken to respond to health complications. Intersex children are subjected to medical procedures for cultural reasons "to avoid the gender identity confusion". While they may justify medical intervention as being beneficial for the intersex child, both doctors and parents contribute to the reinforcement of the idea that intersex people are "abnormal" and need to be fixed. More critically, the forced medical treatment constitutes a violation of human rights and amounts to ill-treatment, because it denies the intersex person their right to autonomy and bodily integrity. Intersex children are not being allowed to grow up as intersex, before deciding on their sex when they reach adulthood.

Medical procedures for intersex children are sometimes justified on the basis that they may result in health benefits. This rationale is often proposed on the basis of weak evidence and without discussing alternative solutions that would protect children's physical integrity and respect their autonomy. In a study of healthcare and LGBTI patients, commissioned by the People's Advocate in 2013,<sup>209</sup> doctors stated that parents should subject intersex children to a medical examination as soon as possible in order "to fix the sex abnormalities and other related health problems deriving from them". Parents who did not send the children for an early medical examination were considered to be irresponsible. Healthcare professionals lack the necessary training, knowledge and understanding about the specific health needs of intersex people. This leads them to provide inappropriate healthcare and to disrespect the rights of intersex people to physical integrity, autonomy and health.<sup>210</sup>

Societal beliefs and medical pressure urge parents of intersex children to agree to treatment procedures, despite the fact that these may not be in the best interest of the children or may violate their human rights. Lacking information from other parents and intersex adult groups, and faced with the urgent need to help their children, the parents of intersex children do what they think is best for their child. Parents are not necessarily aware that agreeing to medical procedures may result in long-term consequences for the physical and mental health of their intersex children, because the effects of surgery and hormonal therapy may be irreversible. Intersex adults exposed to such surgery as children emphasize the shame and stigma that they experienced linked to attempts to erase their intersex traits; significant physical pain during sexual intercourse; and mental suffering, including as a result of extensive and painful scarring.<sup>211</sup>

Parents often hide the fact that their children are intersex because of prejudices about intersex people. People who are known to be intersex can be subjected to discrimination and abuse. An doctor interviewed said that "Parents are ashamed to have an intersex child and hide the fact from their relatives and neighbours. They bring the child for medical examination when the child is grown up, at puberty or teenage, when the boy has enlarged breasts and starts to menstruate..." Not all doctors agree on medical interventions, and few of them have even advised parents to let children grow up intersex. According to a doctor, parents decide which sex they want their child to adopt, and usually prefer male:

*"I informed the parents that a child was a girl with an enlarged clitoris, but the parents decided to have a boy instead, because they had told their relatives that the child was a boy and had named her with a boy's name... at the end I did what the parents decided."*

Intersex people also face barriers and discrimination if they wish to or need to amend their sex designation on birth certificates and official documents. They need to go through a highly bureaucratic procedure including medical screening and a court decision, which are prerequisites for official recognition of the new sex designation. No protection or remedy is provided to Intersex people who experience violations of their rights. The intervention of their bodily integrity without their informed consent is not considered a violation of human rights by health authorities. This hampers any effort to investigate the extent of the unnecessary medical and surgical interventions that intersex people experience.

## 4.9 LGBTI people in the media

### Written and audio-visual media

For almost two decades the media has amplified and exacerbated homophobia in Albania. There are still serious problems with unethical reporting, misinformation, and sensationalizing of LGBTI issues in the media. Negative media coverage is a particular problem around the IDAHOT day in 17 May, when LGBTI people's organizations organize various activities promoting diversity. At this time the media columns are full of shocking declarations, negative comments and hate speech towards the LGBTI community. LGBTI people's organizations have reacted against media articles that incite homophobic hatred and violence. There have been cases where the media has published pseudo-articles or public reactions against the rights of LGBTI people, without verifying the source of the article or the author. An example is the publication in 2014 of a disturbing so-called petition by 57 intellectuals, under the title *"Healthy family, healthy fatherland"*, which argued against according family rights to LGBTI people. Subsequently, many of the people who were included on the list denied ever having signed the petition, and published articles or made declarations on their social media profiles, apologizing to the LGBTI community. PINK Embassy filed a complaint with the Tirana Prosecutor requesting them to initiate an investigation of fraud and incitement to hatred.<sup>212</sup>

Print and audio-visual media have promoted homophobic attitudes by using very negative comments about LGBTI people as deviant, drug-addicted and prostitutes. In 2013 the daily newspaper TELEGRAF reported that the police had finally caught and punished "immoral homosexuals" in Durrës, describing them as a band of troublesome drugged prostitutes who were undermining morality in the neighbourhood. The article concluded that the police did not arrest all of the homosexuals, but only the sex workers.<sup>213</sup> In an article posted in 2010, the newspaper SHEKULLI made public the findings of a study on HIV/AIDS according to which homosexuality is intrinsically linked with drugs, alcohol and HIV:

*"The published study involved 199 homosexuals. The findings conveyed the concern that the number of homosexuals is increasing and society is at risk because they are promiscuous. A specialist from The Public Health Institute told the newspaper that the majority of the homosexuals are so perverted that they have five male partners at the same time, and 55 percent are active partners (meaning heterosexuals)! Almost 37 percent are married and cohabit with women, while 82 percent have spontaneous sex with women. Some 70 percent of them had even had sexual relations with two women at the same time during the last six months. Homosexuals' best friends are drugs and alcohol, with heroin as favourite. Half of them are alcoholic. Looking at these facts the Public Health Institute considers homosexuals a risky social category. Men having sex with men are involved in risky sexual behaviour with different segments of the population and are the bridge between the drug-addicted and female populations."<sup>214</sup>*

This article is an example of the misinformation that the media has spread with the public portraying LGBTI people as deviant, criminals, drug users, immoral, and responsible for the spread of HIV/AIDS.

Since 2010, the media has used more neutral language for its coverage of news about gay pride marches and festivals of diversity. The newspapers gave visibility to the fifth (P)Ride parade on 17<sup>th</sup> of May 2016; to the 2015 movie *SKA-NDAL* (which means "it never ends" in Albanian); and to a short documentary movie "Hidden among you" in May 2013. Some daily newspapers have quoted LGBTI leaders in their columns. Only a few newspapers hold non-discriminatory attitudes about LGBTI people, however. During the electoral campaign for the 2013 general elections, PANORAMA made positive comments about a request made by the LGBTI community to political parties, asking them to include the rights of LGBTI people in their programmes. The paper published a long interview with Xheni Karaj, the leader of Alliance LGBTI.<sup>215</sup> PANORAMA also denounced a case of discrimination against a transgender person by police officers, requesting the Mol to dismiss the perpetrators.<sup>216</sup>

During 2014, the media commented extensively on changes to legislation regarding LGBTI marital and parental rights, proposed by the PA and announced to the media by the MoSWY. The majority of articles were news reports such as “Gays are being married in Albania”, or “The government allows gays to marry”, etc.. However, the news reports triggered a tide of negative comments in public, and the media blogs were full of homophobic extremist hate speech. None of these blog comments were investigated or penalized, despite the fact that the Penal Code prohibits hate speech in the media. The newspaper editors were able to use freedom of speech as an excuse. In no case did the media attempt to use its power to improve public understanding of LGBTI rights. Instead it stayed “neutral” while simultaneously giving the floor to anonymous homophobic bloggers. Moreover, the media have colluded in promoting a widely-held view that the rights of LGBTI people are a Western invention, imported by senior officials in the international community who are working in Albania and sponsored by secret homosexual organizations. In an article published on 14 August 2016, for example, the daily newspaper SOT commented that gay marriage in Albania is a foreign project intended to change the Albania Constitution, and is supported by foreign experts who were drafting the constitutional reforms.<sup>217</sup>

Some well-known opinion-makers in Albania have been able to exert significant positive influence in the media. In March 2010, a young boy called Klodi, who had been raised by emigrant Albanian parents in Italy, came out on Albanian TV as a gay. Young people in his hometown organized a protest to deny him access to the town. Shocked by the homophobic reaction, Fatos Lubonja, a well-known media personality, wrote a landmark article “I am homosexual” in support of the rights of LGBTI people.<sup>218</sup> He called on every citizen to stand by Klodi to protect human rights in Albania, writing:

*“These protesters want Klodi to disappear from TV, from Lezha and Albania and they will not stop the protest until he leaves. I think that everybody who stands by the values and freedoms that were denied to us in communism such as the right to be free, to be ourselves, and to express our opinion freely, has to be on the side of Klodi. Everybody should loudly say “I am a homosexual” to stop this barbarian tide before it is too late. Whoever thinks that this barbarian hysteria is a threat only to homosexuals is wrong. It is a threat to everybody's freedom.”*

Opinion-maker Mustafa Nano had a similar impact when in 2012 he reacted against a TV musical jury that was making fun of a young singer performing a George Michael song, laughing at the sexual orientation of George Michael and the competitor.<sup>219</sup> Nano wrote that LGBTI people are an easy target for patriarchal men, because they are a minority. Recalling that we are all different he argued:

*“My position is an offence against those who do not understand even the most elementary things about modern civilization. No one can be ridiculed, detested, discriminated and persecuted because he or she is born or even has chosen to be different from others with regards with gender, race, ethnicity, faith, sexual orientation etc., and no one has the right to grant to oneself... a right to persecute, ostracize, discriminate others for not being alike.”*

### Social media

LGBTI people's organizations have been very active on social media. They host organizational web-pages which are the main locus of education on LGBTI issues for both the LGBTI community and the wider public, as well as publicizing LGBTI events.

LGBT Pro is led by a journalist who writes regularly and has also provided space to other LGBTI people to express their opinions and tell their stories at the “*historia-ime*” (my story) site. Cases of abuse and mistreatment by public officials and law enforcement authorities are denounced in the pages of the *historia-ime*. Sometimes, cases published on the *historia-ime* site have gone on to be reported in the mainstream media.<sup>221</sup>

In addition to social media, LGBTI organizations have produced short documentaries on LGBTI people in Albania, their daily lives, challenges and wishes. Two of the documentaries (“SKA-NDAL” and “Hidden Among You”) have been aired in the mainstream media. SKA-NDAL was also presented at the Film Festival in Sarajevo.<sup>222</sup>

Social media run by LGBTI organizations has encouraged many young people to come out as LGBTI. Successful professionals, students, and activists have had their stories broadcast in the mainstream audio-visual media. By making their stories public they are advocating for the rights of LGBTI people and help to provide positive models.<sup>223</sup>

Alliance LGBT and Pro LGBT broadcast their first television spot *“Family is about love and care”*, linked to the International Day of Families (May 15th) and IDAHOT on 17 May. In this unique film, a lesbian couple appears going about their daily activities with their child. This is the first such film produced in Albania and by Albanian people. It tries to answer questions raised recently by Albanian media in a heated public debate about LGBTI issues and family rights. Xheni Karaj, a leading rights of LGBTI people activist said to the media that:

*“Gay and lesbian couples are a concrete reality in Albania. These couples are trying to build their lives every day with dedication and tremendous sacrifices and it is unfair that in this country some families are entitled to have full rights while others do not enjoy any of these rights.”*

PINK Embassy has published annual reports on the human rights violations of LGBTI people in Albania. Their web-page contains many information and educational materials. There is a space for LGBTI people to share their stories as well. In 2012, PINK Embassy put out a call to media, asking them to redress the negative consequences of hate speech against the LGBTI community.<sup>225</sup> The organization provided a wealth of suggestions for journalists on how to improve their language and how to convey a positive image of the LGBTI community. The media was invited to cooperate with LGBTI people's organizations and to refrain from using sensational titles in articles related to homosexuality and the LGBTI community. PINK Embassy also publishes e-news and a *“Revista”* (Journal) where news about LGBTI people in Albania and in other countries is posted.<sup>226</sup> In 2012 PINK Embassy organized an award ceremony for the best article portraying LGBTI people in the Albanian media.<sup>227</sup>

## 4.10 Religion and LGBTI people

Religion is not a major component of social, political and cultural life in Albania.<sup>228</sup> Faith-based groups can be legally registered as non-governmental organizations and religious activity is restricted. Use of religious symbols in public institutions and religious education in public schools is prohibited. Radical interpretations of religion have not been able to find a toe-hold in post-atheist Albanian society. Religious communities, which regenerated after the fall of communism, tend to maintain a restrained political and public profile. Historically, Islam and Christianity were the primary religions in Albania. In the 2011 census, 56.7 percent declared Muslim legacy (moderate Sunni and liberal Shia Sufi Bektashi), 37.6 percent Christian legacy (Byzantine Orthodox and Roman Catholic) and nine percent declared agnosticism and atheism.<sup>229</sup> Albanians are not very religious.

Mass conversion of Albanian people to Islam occurred during the 17th and 18th centuries, under the pressure of the Ottoman Empire, which introduced economic penalties for Christian families. Many Christian families decided to convert to Islam to escape the heavy taxes. Conversion was the result of economic pragmatism rather than a spiritual choice. After 1944, under the communist party, religion was constantly contested and finally banned in 1967. Religion was revived after the collapse of communism in 1991. Almost 50 years of anti-religion propaganda had a strong impact in the population, with two generations raised effectively as atheists. When asked about religion, people refer to their family's historical religious legacy and not to their own choice of faith. Being a secular country, people are free to choose to believe or not, and to change their faith. Religion is separated from the public sphere and citizens show strong support for secularism.

The 2016 study on the public administration's perceptions of the rights of LGBTI people revealed that 87.5 percent of employees do not follow any religion practice while 31.7 percent go to church or mosque for faith festivals, which explains why religion has no impact in public attitudes towards LGBTI people.<sup>230</sup> Although the public holds fairly liberal attitudes towards religion, faith-based organizations have been outspoken and united in their hostility against the rights of LGBTI people.

On 20 January 2016, the leaders of faith-based organizations, united to call upon the government and parliament to prohibit same-sex marriages to *“protect the family from destruction”*.<sup>231</sup> Under strong pressure from religious leaders, and contrary to promises that SOGI would be included in the list of prohibited grounds for discrimination, members of parliament removed it from Article 18 of the Constitution at the last moment. On 20 July 2016, PINK Embassy published a press declaration criticizing the withdrawal of the constitutional amendments on discrimination on the grounds of SOGI and criticized members of parliament for capitulating to religious intolerance warning that: *“The submission of parliament to religious extremism is a threat to secularism and human rights.”*<sup>232</sup>

On 17 May 2012, a Muslim group, incited by faith-based leaders, organized an anti-gay demonstration in parallel with the Pro-Gay Festive Venue organized in a public open square. The demonstrators carried banners stating, "Homosexuality is a sin." Condemning the international community for its support to LGBTI people, the leader of the Muslim protesters said that: "Albania will not join the European Union with homosexuals;" implying that if LGBTI people's rights are a membership condition, then Albania will not join the EU.<sup>233</sup> In Albania, mainstream public intellectuals oppose the revival of Islam, because they consider this to be a backwards and anti-modern trend in contrast with Albanians' broadly religious-free European identity. Further, Islam poses obstacles in the country's path towards Europe and frames the issue as a choice between East and West.<sup>234</sup> Other studies on the revival of Islam in the former-communist countries in the Balkans suggest that the experience of religiosity has become more individual, and detached from organized religion and official doctrinal prescriptions. Moreover, Islam is weakly institutionalized and the result is the revival of Islam as a faith, not as a collective identity or an organized form of 'belonging'.<sup>235</sup>

Although religion is regarded as a private issue and is not part of political discourse, faith-based organizations have been trying to influence political decisions concerning the human rights of LGBTI people. In 19 August 2009, when ex-premier Berisha heralded a new law on anti-discrimination which would confer legal recognition and protection for the human rights of LGBTI people in Albania, religious organizations reacted en masse against the proposal. They wrote a letter to the government stating that they considered the extension of family rights to LGBTI people to be a threat to Albanian family and society. They considered homosexuality an imported habit from Western countries and urged the Prime Minister: "To do what is right in the eyes of God, and not what is right in the eyes of the modern world".<sup>236</sup>

Studies on religion in the Western Balkans show that homosexuality is perceived to be a unifying enemy promoted by Western values. The more that sexual diversity is defended by the West, the more resistance may emerge against LGBTI people's human rights.<sup>237</sup> There are no faith-based groups providing support to LGBTI people. However, given the lack of strong underlying religious factors influencing social attitudes towards LGBTI people, the key to changing public perceptions may be public education and awareness-raising activities about the rights of LGBTI people.

## 4.11 Politics and LGBTI people

Since 2010, Albania has achieved important milestones in ensuring the human rights of LGBTI people. Albanian politics has taken firm action to adopt legislation and approve new laws for the protection of the LGBTI community. In 2010 the parliament adopted the LPD, which prohibits discrimination on many grounds, including SOGI. The parliament has elected the national human rights institutions, the People's Advocate (twice, in 2000 and 2011) and the CPD in 2010. The parliament organizes hiring sessions with the NHRI and implements their recommendations in relation to legislation. In 2012, the parliament circulated the remarkable report of the PA on rights of LGBTI people in Albania in which several legislative amendments were recommended and the respective central institutions were urged to draft the amendments. In 2013, the PA and CPD recommendations on amendments of the Criminal Code, on criminalization of hate crimes and hate speech on the grounds of SOGI, were approved by parliament. By 2015, the Law on Administrative Procedures and Labour Code were amended as well, including SOGI as a prohibited ground for discrimination. In 2012 parliament approved the new Law on Pre-University Education which foresees gender and sexual orientation among prohibited grounds for discrimination in education for both students and teachers. Further, in 2014 the Parliamentary Human Rights Sub-Commission organized its first hearing session on the LGBTI situation in Albania and referred to the PA report and CPD records of discrimination against LGBTI people. The Commission's conclusions paved the way for the 2015 parliamentary resolution on the rights of LGBTI people, which also commissioned the 2016-2020 National Plan of Action (NPA) on LGBTI people and appointed the PA as monitor of the implementation of the NPA.

However, the amendment of the Family Code, recommended by the PA, the CPD, LGBTI organizations and the Council of Europe has not yet been approved. In an official visit to the speaker of parliament, who is the leader of the Party Movement for Integration, the Alliance LGBTI leader asked him about the Family Code amendments. The speaker advised her to contact the Minister of Justice on the issue. In an official communication with the PA on the Family Code amendments, the Minister of Justice replied that recommendations on cohabitation would be taken into consideration when the Family Code is revised in the future. The Minister's answer was a meagre response indicating unwillingness to change the Family Code.



In 2016, Albania approved reforms to the justice system which imposed constitutional amendments. The constitutional amendments were a unique opportunity to amend Article 18 of the Constitution on anti-discrimination, with an open-ended list of the grounds for discrimination including SOGI. The inclusion of SOGI as a prohibited ground of discrimination in the Constitution text provoked an unprecedented political debate on the rights to family life for LGBTI persons in Albania. It was presumed that if the Constitution prohibited discrimination on the grounds of SOGI than LGBTI people would be able to marry. That assumption alarmed many politicians who openly expressed their vote against the constitutional amendment of Article 18. One member of the political Party of Justice, Integration and Unity (PDIU) encouraged her party to vote against the inclusion of SOGI in the anti-discrimination law, suggesting that it post risks to the family and would be green light for the approval of marriage for LGBTI people. SOGI was removed from the constitutional amendments and LGBTI people were excluded from the anti-discrimination provision. In July 2016, PINK Embassy filed a complaint to the CPD office against the PDIU member and the CPD reacted immediately by starting an investigation. In a press declaration, the leader of PINK Embassy, Altin Hazizaj said: "Politicians in Albania should refrain from hate speech and verbally abusing LGBTI people. The time has come for every politician to be charged with legal and civic responsibility if they violate equality between citizens and if they incite hatred."<sup>238</sup>

The opposition members of parliament were more outspoken against the constitutional amendment to the anti-discrimination clause. Members of the majority party approved the opposition's argument against LGBTI marriages in silence. In July 2016, when the constitutional amendments were being approved, a member of the opposition Democratic Party declared that foreign diplomats were pressuring Albania to recognize same-sex marriages, implying that the rights of LGBTI people were being imported from the West and did not belong in the Albanian tradition.<sup>239</sup> In 2014, another member of the Democratic Party reacted against the amendments to the Family Code in relation to the cohabitation of same-sex couples, saying that it was an act against social values and a crime against nature.<sup>240</sup> LGBTI organizations declared in the media that Albanian politicians were deliberately denigrating and threatening the LGBTI community. In several cases they have filed complaints to the CPD. In 2011, PINK Embassy filed a complaint against a politician that used discriminatory speech against LGBTI people, and won the case.



Photo ©UNDP: The participants of the National Country Report validation round table held at the Ministry of Social Welfare and Youth in December 2016

Politicians have used hate speech directed at LGBTI people openly in public electoral campaigns. In 2013, the leader of the Party of Legality (Monarchist Party), who at the time was a deputy-minister of defence, said during an electoral meeting in Kukës that his party would hinder any effort to legitimize the rights of LGBTI people and would even abrogate the abortion law.<sup>241</sup> Pro LGBT filed a complaint to the CPD, but she responded that she could not sanction the politician because of freedom of speech laws. LGBT Pro considered the CPD response to be unprofessional and the CPD to be incapable of fighting discrimination effectively. The same politician had declared in 2012, while holding the public position of deputy minister of defence, that if a gay pride parade would take place in Tirana he would beat the homosexuals with a baton, but no sanctions were imposed on him.<sup>242</sup> In 2013 the CPD addressed the issue of politicians' homophobic speech.<sup>243</sup> In 2016, when the political debate on the rights of LGBTI people to family life became heated, the leader of Pro LGBT, Kristi Pinderi declared:

*"It is time for the Albanian Parliament and politicians to take their responsibilities, to raise themselves above prejudices and to finally amend the old Family Code in order to guarantee equal rights to everyone. We cannot tolerate any more that LGBTI families are treated as second-class citizens."*<sup>244</sup>

The 2015 NDI poll on LGBTI people in the Western Balkans revealed that in Albania 58 percent of the general public said that they would not vote for politicians who championed the rights of LGBTI people (NDI, 2015).

## 5. Conclusions and recommendations

### 5.1 Conclusions

Upon gaining candidate status for EU membership, Albania has intensified its efforts to fulfil the Council of Europe's recommendation for better protection of human rights. Albania now has a Law against Discrimination which clearly prohibits discrimination on the grounds of SOGI, and an improved legal framework containing equality and non-discrimination dispositions, such as: the Penal Code, Labour Code, Administrative Procedures Code, and the Law on Pre-University Education and Law on Free Legal Aid. Other laws still need to be amended to provide further guarantees of formal equality and non-discrimination to LGBTI people. These include the Constitution,<sup>245</sup> Family Code,<sup>246</sup> Civil Procedure Code,<sup>247</sup> Law on Reproductive Health,<sup>248</sup> Law on Asylum,<sup>249</sup> Law on Civil Status,<sup>250</sup> and partial improvement of the Penal Code.<sup>251</sup> Law enforcement institutions and courts are the legal venues for addressing criminal offences against LGBTI people.<sup>252</sup>

At the policy level, Albania has twice approved specific social policies for the protection of LGBTI people, in 2014 and 2016. The first made some remarkable achievements in legal and institutional areas, such as: (i) improvement of the legal environment, amendment of the Penal Code, the Administrative Procedures Code and the Law on Pre-University Education; (ii) reinforced institutional cooperation of LGBTI people's organizations with the MoSWY; and (iii) training of teachers, police officers and health professionals on non-discrimination of LGBTI people.<sup>253</sup> The second National Plan of Action on LGBTI people 2016-2020 is only in the first steps of implementation. To date its main achievements are: (i) the Amendment of the Labour Code including non-discrimination on the grounds of SOGI;<sup>254</sup> and (ii) the setting up of the National Implementation Coordination Group (NICG), the government mechanism for NPA implementation.<sup>255</sup>

The Parliamentary Resolution "On the Protection of the Rights and Freedoms of persons belonging to the LGBT community" is an important step towards the promotion and protection of LGBTI people's rights. It sets forth several obligations on the part of the government, such as: (i) designing and implementing policy that ensures effective protection of LGBTI people;<sup>256</sup> (ii) training of educational staff on the prevention of discrimination and homophobia in schools; and (iii) inspecting the equality and non-discrimination of LGBTI employees.

LGBTI people can address inequality, discrimination and violation of human rights through two NHRI bodies: the CPD and the PA. The PA has provided LGBTI people with protection against ill-treatment by the public administration and has issued recommendations to redress human rights violations. CPD has provided protection against discrimination from public and private entities and has issued sanctions against them. Both institutions have played a vital role in promoting the formal protection of LGBTI people, by recommending a handful improvements to the legislation.<sup>257</sup> Their special reports on the situation of LGBTI people have been decisive for parliamentary actions in favour of rights and protection for LGBTI people.

LGBTI civil society organizations have been the key actors promoting equality and human rights protection for LGBTI people. They have voiced LGBTI people's needs and addressed their individual and group discrimination and human rights violations on many occasions.<sup>258</sup> They made a tremendous contribution to the design of the LGBTI NPAs and influenced the amendment of laws and policy design in the area of human rights and anti-discrimination. They have been critical in raising public awareness of the human rights of LGBTI people, as well as in training the public administration, teachers and police officers on anti-discrimination. Given the negative societal attitudes towards equality of LGBTI people in Albania, they have been swimming against the mainstream and contributing to social change through education and awareness-raising with the public.<sup>259</sup> Young LGBTI people who are victims of domestic violence now have a safe place to stay, the shelter STREHA which was opened by LGBTI organizations.<sup>260</sup>

Although the institutional environment is changing in positive ways, the effects of legal and policy improvements are not yet visible, because they are not being applied in practice. The lack of enactment of legal and institutional measures shows that the government has endorsed its responsibility to protect the rights of LGBTI people more to satisfy the demands of the international community – and in order to meet the requirements for EU membership in particular – rather than as a civil duty towards LGBTI citizens. The legislation *per se* is not a guarantee of the enjoyment of human rights, if it is not backed up with political will and changes in institutional practice. The situation of LGBTI persons in Albania is contradictory. On the one hand, the legislative and institutional environments have improved – but on the other hand LGBTI people continue to face widespread discrimination and homophobia. Despite the existence of the judiciary system and law enforcement mechanisms, the human rights of LGBTI people are often violated. Distrust in the judiciary system has forced LGBTI people to almost ignore its existence and not use it to seek redress. This explains the low numbers of reported cases, lack of judicial prosecutions and lack of data on hate crimes. Because LGBTI people know that public employees hold discriminatory attitudes, they do not adopt the means of making a legal complaint against public institutions or employees, despite facing institutional discrimination in educational, healthcare, and employment settings. The remarkable work of the NHRI institutions is reduced in its effectiveness by the resistance of institutions that do not follow the PA and CPD recommendations and sanctions.<sup>261</sup>

Failure to recognize discrimination based on SOGI is widespread, because law enforcement officials, judges, and public administration officials are not trained on anti-discrimination. As consequence, LGBTI victims struggle to obtain justice.

Deep-rooted prejudices among the majority of the population and a lack of awareness on the part of state officials impede the effective application of legislation and prevent its further improvement. For example, amendments to the Family Code which would introduce the concept of cohabitation of same-sex couples have not yet been adopted. LGBTI people face practical barriers in enjoying their human rights on an equal footing with others. They continue to experience a lack of support and violence from their families, neighbourhoods, political and religious leaders, law enforcement officials, employers, and health and education service providers. Research conducted into the situation of LGBTI people in Albania provides many accounts of discrimination, such as: harassment in school;<sup>262</sup> denial of access to the means of reproduction and discrimination in healthcare institutions;<sup>263</sup> discrimination in the workplace;<sup>264</sup> and discrimination in public administrative offices.<sup>265</sup> As a consequence: (i) LGBTI children's educational achievement is reduced and their safety is threatened; (ii) the health rights and mental wellbeing, especially of intersex and trans people, are seriously disregarded; (iii) the economic opportunities and self-sustainability of LGBTI people are put at risk; and (iv) the right to unbiased and fair treatment is compromised. Pervasive use of domestic violence against LGBTI people and general public disapproval means that many LGBTI choose not to “come out” publicly or to their families. Public awareness and social acceptance remain low among both lay-people and professionals, particularly in rural areas.

## 5.2 Recommendations

### I. The state should protect LGBTI people from violence by:

- (a) Criminalizing the incitement of hatred on the grounds of SOGI and distribution of homophobic and transphobic materials to the public (Penal Code, Articles 119/a/b);
- (b) Criminalizing threatening with murder or grave harm on the grounds of SOGI as aggravating factors for purposes of sentencing (Penal Code, Article 84)

- (c) Criminalizing transphobic hate speech (Penal Code, Article 265)
- (d) Conducting investigations of incidents of hate-motivated violence against LGBTI people, holding perpetrators to account, and providing redress to victims;
- (e) Collecting data on the number and types of incidents of violence towards LGBTI people, while providing for the security of those reporting;
- (f) Prohibiting incitement of hatred and violence on the grounds of SOGI, and holding to account those responsible for related hate speech;
- (g) Training law-enforcement personnel and judges in gender-sensitive approaches to addressing violations related to SOGI;
- (h) Ensuring that police and prison officers are trained to protect the safety of LGBTI detainees, and holding to account state officials involved or complicit in incidents of violence;
- (i) Banning involuntary HRT treatment aimed at “conversion” of LGBTI people;
- (j) Prohibiting medically-unnecessary procedures on intersex children;
- (k) Ensuring that asylum law recognizes persecution on account of SOGI as a valid basis for an asylum claim; and sensitizing refugee and asylum personnel.

## II. The state should protect LGBTI people from discrimination by:

- (a) Revising criminal dispositions to remove offences relating to consensual same-sex conduct and other offences used to arrest and punish persons on the basis of their SOGI or the expression thereof (Penal Code, Articles 107-113);
- (b) Monitoring implementation of the LGBTI National Plan of Action (NPA) 2016-2020 on non-discrimination; by ensuring coordination and adequate resourcing of activities, accountability for perpetrators, and redress for victims;
- (c) Sensitizing healthcare workers to the health needs of LGBTI persons, including in the areas of sexual and reproductive health and rights, suicide prevention, HIV/AIDS and trauma counselling;
- (d) Establishing national standards on non-discrimination in education; developing anti-bullying programmes and supporting helplines and other services to support LGBTI young people; and providing comprehensive, age-appropriate education about sexuality and SOGI;
- (e) Ensuring that housing policies do not discriminate against tenants based on their sexual orientation and gender identity; establishing shelters for homeless LGBTI people, with specific attention to young people, older people and those in emergency situations;
- (f) Providing legal recognition to same-sex couples and their children, ensuring that benefits traditionally accorded to married partners – including those related to benefits, pensions, and taxation and inheritance – are accorded on a non-discriminatory basis (Family Code, Articles 164 and 164);
- (g) Issuing legal identity documents, upon request, that reflect a person's preferred gender, eliminating unnecessary preconditions (Law on Civil Status);
- (h) Supporting public education campaigns to counter homophobic and transphobic attitudes, and addressing negative, stereotypical portrayals of LGBTI persons in the media, by expanding AMA functions (Law on AMA);
- (i) Ensuring LGBTI people and their organizations are consulted with regard to legislation and policies that have an impact on their rights.
- (j) As the governmental body with responsibility for promoting and protecting the human rights of LGBTI people, the National Implementation Coordination Group (NICG) should keep itself regularly informed about patterns of violence and discrimination linked to SOGI, as well as providing responses to the improvement of LGBTI people's situation. To this end, NICG shall prepare thematic and periodical reports on the implementation of the LGBTI NPA 2016-2020.



*B. National human rights institutions should:*

- (a) Address violence and discrimination against LGBTI people in the context of their respective mandates to promote and monitor effective implementation of international human rights standards at the national level;
- (b) Expand their protection across all regions of Albania;
- (c) Be given proper human resources and finances to fulfil their mandate;
- (d) Track the application of their recommendations.

*C. LGBTI civil society organizations should:*

- (a) Develop increased skills in the areas of leadership and governance;
- (b) Enhance current governance by increasing target groups' participation in decision-making;
- (c) Improve their capacities for strategic planning and operational management;
- (d) Develop skills in project cycle management, alternative funding, strategic partnerships with donors and social entrepreneurship, financial management and reporting;
- (e) Improve their skills in communication and public campaigning;<sup>266</sup>
- (f) Improve their capacities to document and monitor human rights violations;
- (g) Learn about strategic litigation to provoke institutional and legal reactions;
- (h) Increase collaboration with politicians and government officials;
- (i) Build partnerships with each other and with LGBTI organizations in the Balkans and internationally.



Photo ©UNDP: Presentation of the preliminary findings of the Country Report at the validation round table held at the Ministry of Social Welfare and Youth



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## Endnotes

- <sup>1</sup> These key terms are defined as per the UN Free & Equal - United Nations global public education campaign for lesbian, gay, bisexual and transgender (LGBT) equality. For more info see: <https://www.unfe.org/>
- <sup>2</sup> In Tirana on June 23 2016, UNDP, in close cooperation with the Ministry of Social Welfare and Youth and LGBTI Equal Rights Association for Western Balkans and Turkey, organized the national round table “Reducing Inequalities and Exclusion, and Combating Homophobia and Transphobia Experienced by LGBTI People in Albania” within the context of a regional project “Being LGBTI in Eastern Europe (BLEE)”. This round table gathered a variety of stakeholders who agreed on priority issues related to the rights of LGBTI people in Albania and convened dialogues to bring together national decision makers with LGBTI CSOs. For further information see the acknowledgments in this report.
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- <sup>10</sup> The Labour Code of the Republic of Albania, Law No. 7961, dated 12.07.1995, last amended 2015, Official Gazette, [http://inspektoriatipunes.gov.al/wp-content/uploads/2014/02/kodi\\_i\\_punes.pdf](http://inspektoriatipunes.gov.al/wp-content/uploads/2014/02/kodi_i_punes.pdf)
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- <sup>17</sup> Law on Public Health, No. 10,138, date 11.5.2009, <http://www.ishp.gov.al/wp-content/uploads/2015/ligjet/Ligji-i-shendetit-publik.pdf>
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- <sup>22</sup> The National Plan of Action on LGBTI Rights in Albania was commissioned by the Parliament Project-Resolution “On the Protection of LGBT Rights” approved by parliament on 07.5.2015, accessed 12 August 2016, [https://www.parlament.al/wp-content/uploads/2016/01/projektligbt\\_22320\\_1.pdf](https://www.parlament.al/wp-content/uploads/2016/01/projektligbt_22320_1.pdf)



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- <sup>24</sup> The social context is examined using several methods and sources including: research study reports on human rights of LGBTI people, fieldwork with the LGBTI community and professionals, and observation.
- <sup>25</sup> For further information about the role of the social context, see Chapter 4 of this report.
- <sup>26</sup> For further information about the role of religion, see Chapter 4 of this report.
- <sup>27</sup> In one article of 2013 the daily newspaper TELEGRAF reported that the police had caught the immoral homosexuals in Durrës, naming them a band of drugged prostitutes that had undermined morality in the neighbourhood and had been troublesome. TELEGRAF, 19 December 2013, accessed 25 August 2016, <http://telegraf.al/aktualitet/durres-zbulohen-edhe-goditen-bazat-e-homoseksualeve-ne-qytet>.
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- <sup>29</sup> Commissioner on Protection from Discrimination (2014a) *Special report on LGBTI rights in Albania*, (Komisioneri për Mbrojtjen nga Diskriminimi: Raport i veçantë për mbrojtjen dhe respektimin e të drejtave të komunitetit LGBTI në Shqipëri), accessed 11.08.2016, <http://www.pinkembassy.al/sites/default/files/uploade/Raporti%20i%20Vecante%20i%20KMD%20per%20LGBT%202014.pdf>
- <sup>30</sup> *Idem 9*
- <sup>31</sup> *Idem 10*
- <sup>32</sup> Decision of the Council of Ministers No. 845, date 27.9.2013 "On the definition of the public responsibility of the Ministry of Social Welfare and Youth", Official Gazette, No. 161, 3.10.2013, [http://www.qbz.gov.al/botime/fletore\\_zyrtare/2013/PDF-2013/161-2013.pdf](http://www.qbz.gov.al/botime/fletore_zyrtare/2013/PDF-2013/161-2013.pdf)
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- <sup>35</sup> The National Implementation and Coordination Group (NICG) set up by Order of the Prime Minister No. 147, date 28.9.2016, was announced at the launching event of MoSWY of the LGBTI National Plan of Action 2016–2020 on 21<sup>st</sup> October 2016. NICG is chaired by the Minister of MoSWY and is composed of five representatives of central institutions: MoJ, MoH, MoES, Mol and the office of the Prime Minister. The PA, CPD and LGBTI organizations are invited to the meetings of the NICG, which are held every three months. Accessed 25.10.2016, <http://www.sociale.gov.al/al/newsroom/lajme/planikombetar-i-lgbti-ne-shqiperi>
- <sup>36</sup> Ministry of Education and Sport (2014) Response of the Minister Mrs. Lindita Nikolla to the request of the Mrs. Vasilika Hysi (Ministria e Arsimit dhe Sportit Përgjigje shkresësno. 3640 prot., datë 10.11.2014, Znj. Vasilika Hysi, Kryetare e Nënkomisionit për të Drejtat e Njeriut, Kuvendi i Shqipërisë, 24.11.2014, nga Ministria, Zj. Lindita Nikolla)
- <sup>37</sup> United Nations (2014b) Human Rights Committee: Concluding observation on the second UPR of Albania, CCPR/C/ALB/CO/2, 22 August 2013, accessed 12.08.2016, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-ALB-CO-3.pdf>
- <sup>38</sup> Parliament of the Republic of Albania (2015) *Resolution on the protection of the human rights and freedoms of LGBTI people*, [https://www.parlament.al/wp-content/uploads/2016/01/rezoluta\\_per\\_komunitetin\\_lgbt\\_dt\\_7\\_5\\_2015.pdf](https://www.parlament.al/wp-content/uploads/2016/01/rezoluta_per_komunitetin_lgbt_dt_7_5_2015.pdf)
- <sup>39</sup> Council of Europe (2010) Committee of Ministers Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender, accessed 21.8.2016, <https://rm.coe.int/168047f2a6>
- <sup>40</sup> Official Publications Centre (2015) *Official Gazette, No. 77, Parliament Decision "On the protection of human rights and freedoms of LGBT people"*, date 7.5.2015, pages 3444–3446.
- <sup>41</sup> Fecanji, Amarildo (2015) *Training Manual on LGBTI Rights and Friendly Services*, (Manual Trajnimi: Te drejtat e personave LGBT dhe ofrimi i shërbimeve miqësore), Tirana: PINK Embassy/LGBT-Pro.
- <sup>42</sup> PINK Embassy began the activity in 2009, while the real change to the LGBTI movement began in 2007, with events organized by CRCA and supported by the Dutch Embassy. CRCA played a major role in initiating a public discussion on the situation of LGBTI people which resulted in the formation of a group of activists that established the LGBTI people's organizations. The Dutch Embassy supported the establishment of the Working Group on LGBT Rights and the compilation of the Anti-Discrimination Law, by bringing together several human rights organizations and strengthening the movement. Source: Interview with Altin Hazizaj, Executive Director of CRCA, held in March 2017.
- <sup>43</sup> Interview with Altin Hazizaj, held in March 2017.
- <sup>44</sup> First Annual Tirana Bike (P)Ride, dayagainsthomophobia website, accessed 28.02.2017 <http://dayagainsthomophobia.org/cycle-for-love-tiranas-bike-p-ride/>



- <sup>45</sup> PINK Embassy (2013) Annual Report 2013, accessed 6.8.2016, <http://www.pinkembassy.al/sites/default/files/uploade/2012%20Raport%20%20Plote%20%20Shkeljeve%20Te%20Te%20Drejtave%20Te%20Njeriut.pdf>
- <sup>46</sup> United States Embassy (2012) Embassy organizes regional LGBT conference (June 18, 2012), Stop the Violence: LGBT Rights are Human Rights, accessed 10.08.2016, <https://al.usembassy.gov/category/events/>
- <sup>47</sup> ILGA Europe (2015) *Annual Review: Albania 2015*, accessed 11.08.2016, [file:///C:/Users/HP-pc/Downloads/albania\\_-\\_annual\\_review\\_2015.pdf](file:///C:/Users/HP-pc/Downloads/albania_-_annual_review_2015.pdf)
- <sup>48</sup> Streha official website, accessed 25.01.2017 <http://strehalgbt.al/sq/rreth-qendres-streha/>
- <sup>49</sup> PINK Embassy has conducted two national studies on the rights of LGBTI people: Poni and Hazizaj (2016a) *Public Administration Attitudes to LGBTI Service Users: A Study of Six Regions*. Tirana: PINK Embassy Publications, accessed 4.9.2016, <http://www.pinkembassy.al/publikime/sherbimet-vendore-dhe-komuniteti-lgbt-ne-shqiperi-2016> and Poni and Hazizaj (2016b) *Discrimination against LGBTI students in Schools: A Study of Six Regions*. Tirana: PINK Embassy Publications (forthcoming publication). Preliminary results in: <http://www.pinkembassy.al/studimi-i-ambasades-pink-adoleshentet-lgbt-viktima-te-dhunes-bashkemoshatarebulizmit>. Alliance LGBT has published a national report on LGBTI people's access to education and health services: Balli, Brikena (2015) *Reduce Violence against Women with a Focus on LBT Community in Albania*, Tirana: Accessed 25.01.2017 <http://historia-ime.com/wp-content/uploads/2015/12/Libri-Anglisht.pdf> Alliance LGBT and PA have co-published a study on LBT women's access to health services: Voko, Kristina (2013) *Access in healthcare and service quality for LGBT people in Albania*, People's Advocate Technical Report and Alliance LGBTI (Aksesi në shërbime dhe cilësia e kujdesit shëndetësor për personat LGBT në Shqipëri – Raport Teknik; Avokati i Popullit, Tiranë)
- <sup>50</sup> Interviews with leaders of LGBTI organizations, September 2016.
- <sup>51</sup> National Democratic Institute (2015) *Public Opinion Poll on LGBTI Issues, Western Balkans*, accessed 10.08.2016, [https://www.ndi.org/LGBTI\\_Balkans\\_poll](https://www.ndi.org/LGBTI_Balkans_poll). The poll includes data from Albania, Bosnia-Herzegovina, Kosovo\* ( UNSCR 1244), FYR Macedonia, Montenegro and Serbia.
- <sup>52</sup> People's Advocate (2016) On the rights of the LGBTI community and International instruments signed and ratified from Albania with regard to human rights and LGBTI people: Convention on Prevention and Punishment of the Crime of Genocide, Paris, 9 December 1948; International Convention on Elimination of all Forms of Racial Discrimination, New York, 7 March 1966; Amendment under Article 8 of the International Convention on Elimination of all Forms of Racial Discrimination, New York, 15 January 1992; International Convention on Economic, Social and Cultural Rights, New York, 16 December 1966; Optional Protocol to the International Convention on Economic, Social and Cultural Rights, New York, 10 December 2008; International Convention on Civil and Political Rights, New York, 16 December 1966; Optional Protocol to the International Convention on Civil and Political Rights, New York, 16 December 1966; Convention on the Non-applicability of Statutory Limitations to War Crimes and; Crimes against Humanity, New York, 26 November 1968; International Convention on the Suppression and Punishment of the Crime of Apartheid, New York, 30 November 1973; 17 Convention on Elimination of all Forms of Discrimination against Women, New York 18 December 1979. Accessed 14.01.2017, <http://www.avokatipopullit.gov.al/en/node/251>
- <sup>53</sup> UDHR, art. 2; ICERD, art. 5; ICCPR, art. 2(1); ICESCR, art. 2(2); CEDAW, art. 3; CAT, art. 1(1); CRC, art. 2; ICRMW, art. 1(1).
- <sup>54</sup> UDHR, art. 7; ICCPR, art. 26.
- <sup>55</sup> Ratified treaties of the Council of Europe include: Council of Europe Convention against Trafficking in Human Organs; Protocol No. 16 to the Convention for the Protection of Human Rights and Fundamental Freedoms; Protocol No. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms; ; Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse; Council of Europe Convention on Action against Trafficking in Human Beings; Convention on Contact concerning Children; Additional Protocol to the Convention on Cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems; Additional Protocol to the European Agreement on the Transmission of Applications for Legal Aid; Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms; European Social Charter (revised); European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; European Convention on the Compensation of Victims of Violent Crimes; Convention for the Protection of Human Rights and Fundamental Freedoms; Statute of the Council of Europe.
- Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services; Directive 2006/54/EC of the European Parliament and of the
- <sup>56</sup> Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast); Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. Source: Crowley and Wladasch (2016) *Analysis of the Albanian Human Rights and Anti-Discrimination System*, Council of Europe and the European Union.

- <sup>57</sup> Idem 7
- <sup>58</sup> United Nations (2010) CEDAW Albania: Concluding Observations of the Committee on the Elimination of Discrimination against Women, accessed 11.08.2016, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-ALB-CO-3.pdf>
- <sup>59</sup> Idem 8
- <sup>60</sup> Ministry of European Integration: Legislation approximation with EU acquis, accessed 10 October 2016, <http://www.integrimi.gov.al/al/programi/pefrimi-i-legjislacionit>. LPD is compatible with: the Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation; Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services; Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).
- <sup>61</sup> Idem 9
- <sup>62</sup> Loloçi, Krenar (2014) Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity. Legal Report: Albania, commissioned by the British Embassy in Tirana.
- <sup>63</sup> The difference in years can be explained by the disproportionate use of force by men against women, meaning that women may not be able to defend themselves.
- <sup>64</sup> Commissioner on the Protection from Discrimination (2016) Report for CEDAW session 64 on Albania (KMD raport për Cedaw 2016, Korrik Komiteti për Eliminimin e Diskriminimit ndaj Grave CEDAW, Sesioni 64, 4-22 Korrik 2016, Gjenevë), accessed 21.8.2016, <http://www.kmd.al/?fq=brenda&gj=gj1&kid=110>
- <sup>65</sup> Idem 16.
- <sup>66</sup> Idem 19.
- <sup>67</sup> Idem 10
- <sup>68</sup> Idem 74
- <sup>69</sup> Interviews with LGBTI people, held in September 2016
- <sup>70</sup> ILGA Europe (2016) Enlargement Review: Albania 2016. Accessed 20.8.2016, [http://www.ilga-europe.org/sites/default/files/enlargement\\_review\\_albania\\_2016.pdf](http://www.ilga-europe.org/sites/default/files/enlargement_review_albania_2016.pdf)
- <sup>71</sup> ILGA (2006) Survey Research with the LGBT Community in Albania conducted by GISH (summer 2006), accessed 31.8.2016, [http://old.ilga-europe.org/home/guide\\_europe/country\\_by\\_country/albania/survey\\_research\\_with\\_lgbt\\_community\\_in\\_albania\\_summer\\_2006](http://old.ilga-europe.org/home/guide_europe/country_by_country/albania/survey_research_with_lgbt_community_in_albania_summer_2006)
- <sup>72</sup> Idem 23
- <sup>73</sup> Headhunter (2016) Annual Report: LGBTIQ Employment Equality Index, accessed 12.06.2016, <http://www.headhunter.al/en-us/lgbtq-index>
- <sup>74</sup> Source: Interview with the head of the Headhunter organization, Mr. Elton Iliriani.
- <sup>75</sup> PINK Embassy (2013) Annual Report 2013, accessed 6.8.2016, <http://www.pinkembassy.al/sites/default/files/uploade/2012%20Raport%20%20Plote%20%20Shkeljeve%20Te%20Te%20Drejtave%20Te%20Njeriut.pdf>
- <sup>76</sup> United Nations (2014c) CEDAW Albania Fourth Periodic Report, CEDAW/C/ALB/4, accessed 10.08.2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/664/83/PDF/N1466483.pdf>
- <sup>77</sup> Idem 11
- <sup>78</sup> Idem 12
- <sup>79</sup> Idem 85
- <sup>80</sup> Poni and Hazizaj (2016b) Discrimination against LGBTI Students in Schools: A Study of Six Regions. Tirana: PINK Embassy Publications (forthcoming publication). Preliminary results in: <http://www.pinkembassy.al/studimi-i-ambasades-pink-adoleshentet-lgbt-viktima-te-dhunes-bashkemoshatarebulizmit>
- <sup>81</sup> National Democratic Institute (2015) Public Opinion Poll on LGBTI issues: Western Balkans, accessed 10.08.2016, [https://www.ndi.org/LGBTI\\_Balkans\\_poll](https://www.ndi.org/LGBTI_Balkans_poll)
- <sup>82</sup> ILGA Europe (2016) Enlargement Review: Albania 2016. Accessed 20.8.2016, [http://www.ilga-europe.org/sites/default/files/enlargement\\_review\\_albania\\_2016.pdf](http://www.ilga-europe.org/sites/default/files/enlargement_review_albania_2016.pdf)
- <sup>83</sup> Balli, Brikena (2015) Reduce Violence against Women with a Focus on LBT Community in Albania, Tirana: Alliance against Discrimination of LGBT. Accessed 25.01.2017 <http://historia-ime.com/wp-content/uploads/2015/12/Libri-Anglisht.pdf>
- <sup>84</sup> Idem 83.
- <sup>85</sup> Idem 83
- <sup>86</sup> Idem 54

- <sup>87</sup> Poni and Hazizaj (2016b) *Discrimination against LGBTI Students in Schools: A Study of Six Regions*. Tirana: PINK Embassy Publications (forthcoming publication). Preliminary results in: <http://www.pinkembassy.al/studimi-i-ambasades-pink-adoleshentet-lgbt-viktima-te-dhunes-bashkemoshatarebulizmit>
- <sup>88</sup> National Democratic Institute (2015) *Public Opinion Poll on LGBTI issues: Western Balkans*, accessed 10.08.2016, [https://www.ndi.org/LGBTI\\_Balkans\\_poll](https://www.ndi.org/LGBTI_Balkans_poll)
- <sup>89</sup> *Idem 13*.
- <sup>90</sup> TLAS (2012) Report on Free Legal Aid in Albania, a publication of TLAS and Human Rights Defenders, <http://www.tlas.org.al/sites/default/files/Raporti%20TLAS%20-%20%20MBI%20NDIHM%C3%8BN%20JURIDIKE%20N%C3%8B%20SHQIP%C3%8BRI.pdf>
- <sup>91</sup> *Idem 14*
- <sup>92</sup> *Law on Adoption Procedures*, Law No. 9695, date 19.3.2007, last amended with Law No. 132/2015, date 5.12.2015, Official Gazette, accessed 12.09.2016, states that <http://www.qbz.gov.al/ligje.pdf/biresimi/ligji%20per%20biresimin.pdf>
- <sup>93</sup> Correspondence of the PA with the Minister of Justice, 2013, print version distributed by the PA office.
- <sup>94</sup> Commissioner on the Protection from Discrimination (2014a) *Special report on Rights of LGBTI people in Albania*, (Komisioneri per Mbrojtjen nga Diskriminimi: Raport i veçantë për mbrojtjen dhe respektimin e të drejtave të komunitetit LGBTI në Shqipëri), accessed 11.08.2016, <http://www.pinkembassy.al/sites/default/files/uploade/Raporti%20i%20Vecante%20i%20KMD%20per%20LGBT%202014.pdf>
- <sup>95</sup> Source: Interviews with the leaders of LGBTI organizations, conducted in September 2016.
- <sup>96</sup> Source: Interviews with representatives of the MoWSY, conducted in September 2016.
- <sup>97</sup> Council of Europe Office in Tirana, Previous Programmes, Fight against Discrimination Based on Sexual Orientation or Gender Identity, accessed 30.08.2016, <http://www.coe.int/en/web/tirana/fight-against-discrimination-based-of-sexual-orientation-or-gender-identity>
- <sup>98</sup> ECRI, European Commission against Racism and Intolerance (2015) *ECRI Report on Albania*, fifth monitoring cycle, adopted on 19 March 2015, accessed 10.07.2016, <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Albania/ALB-CbC-V-2015-18-ENG.pdf>
- <sup>99</sup> *Idem 15*.
- <sup>100</sup> Source: Interview with Mol representatives, conducted in August 2016. They referred to the case of an intersex person who was raised as a boy (male) but who after puberty turned out to be a girl (female) and needed to change their gender marker; Mol accepted the request upon receipt of the court decision that approved the request based on the medical report. Although they did not know of other cases, they accepted that there might have been other requests. However there are no data on intersex people; transgender persons have not approached the Mol to request official recognition of the reassigned gender.
- <sup>101</sup> European Commission, 2015 [http://ec.europa.eu/justice/discrimination/orientation/awareness-raising/index\\_en.htm](http://ec.europa.eu/justice/discrimination/orientation/awareness-raising/index_en.htm)
- <sup>102</sup> *Idem 20*.
- <sup>103</sup> *Idem 17*.
- <sup>104</sup> *Idem 16*.
- <sup>105</sup> *Law on Mandatory Health Insurance in Republic of Albania*, No. 10383, date 24.2.2011, last amended 17.12.2015, Official Gazette, (Ligj" Për sigurimin e detyrueshëm në sistemin shëndetësor të Republikës së Shqipërisë), accessed 23.08.2016, <http://www.qbz.gov.al/ligje.pdf/sigurime%20shendetesore/Ligj%20Nr%2010%20383.pdf>
- <sup>106</sup> *Idem 19*.
- <sup>107</sup> *Law on Mental Health*, No. 44/2012, date 2012, Official Gazette, (Ligj për Shëndetin Mendor), accessed 27.08.2016, [http://www.qbz.gov.al/botime/fletore\\_zyrtare/2012/PDF-2012/53-2012.pdf](http://www.qbz.gov.al/botime/fletore_zyrtare/2012/PDF-2012/53-2012.pdf)
- <sup>108</sup> Parliament of the Republic of Albania (2015) Resolution on the protection of the human rights and freedoms of LGBTI people <https://www.hrw.org/news/2015/05/08/dispatches-albania-signals-positive-step-lgbt-rights>
- <sup>109</sup> Focus group with LGBTI people, conducted in September 2016.
- <sup>110</sup> *Law on Prevention and Control of HIV/AIDS*, No. 9952, date 14.7.2008, (Ligji 'PërParandalimindheKontrollin e HIV/AIDS-it'), accessed 25.08.2016, [http://www.shendetesia.gov.al/files/userfiles/Baza\\_Ligjore/Ligje/35.pdf](http://www.shendetesia.gov.al/files/userfiles/Baza_Ligjore/Ligje/35.pdf)
- <sup>111</sup> Ministry of Health (2013) *The Mental Health Action Plan 2013-2022*, accessed 28.08.2016, [http://www.shendetesia.gov.al/files/userfiles/Baza\\_Ligjore/Dokumenta\\_strategjike/pv1.pdf](http://www.shendetesia.gov.al/files/userfiles/Baza_Ligjore/Dokumenta_strategjike/pv1.pdf)
- <sup>112</sup> ILGA Europe (2016) *Enlargement Review: Albania 2016*. Accessed 20.8.2016, [http://www.ilga-europe.org/sites/default/files/enlargement\\_review\\_albania\\_2016.pdf](http://www.ilga-europe.org/sites/default/files/enlargement_review_albania_2016.pdf)
- <sup>113</sup> *Idem 18*.
- <sup>114</sup> Balli, Brikena (2015) *Reduce Violence against Women with a Focus on LBT Community in Albania*, Tirana: Alliance against Discrimination of LGBT. Accessed 25.01.2017 <http://historia-ime.com/wp-content/uploads/2015/12/Libri-Englisht.pdf>
- <sup>115</sup> MoSWY, the NPA 2016-2020.
- <sup>116</sup> Roadmap for Five Key Priorities for Albania, EU Accession. April 2014, Priority 5 "Strengthening and protecting human rights, including Roma and non-discrimination policies and the application of property rights"; includes measures to increase the professional capacity of CPD staff; publishing information materials; re-wording the Criminal Code regarding hate speech and discrimination; amending the Family Code; organizing trainings related to the LPD; raising public awareness on protection from discrimination and the role of CPD in this regard; including the concepts of SOGI in the Family Code and Labour Code

- <sup>117</sup> The National Strategy on Development and Integration, Phase II (NSDI II) is the overarching strategy for all national plans for 2015-2020; all other sector and cross-sector strategies and National Action Plans derive from it, including the LGBTI NPA 2016-2020.
- <sup>118</sup> Order No. 139, dated 01/07/2010 of the Prime Minister "On implementing the monitoring process of sector and cross-sector strategies"
- <sup>119</sup> NICG will monitor the implementation of the LGBTI NPA 2016-2020; NICG duties are: to set a time frame for NPA implementation; to monitor the implementation and review reports of institutions responsible for the NPA implementation; to assess the implementation measures proposed by institutions. NICG was launched by the Minister of MoSWY in 21.10.2016, which may be considered the first meeting.
- <sup>120</sup> Integrated Policy Management Group (IPMG) shall receive monitoring and evaluation reports for the Employment and Social Sector, set up by Order of the Prime Minister No. 129, dated 21/09/2015 "On taking institutional and operational measures for the implementation of sector approach and establishing the Integrated Policy Management Group (IPMG)": The IPMG shall will monitor the sector reforms in Albania in compliance with the Government Priorities, NSDI II, the Medium Term Budget Programme (MTBF), the EU accession process and the international obligations of Albania.
- <sup>121</sup> Balili-Mandro, Arta and Flutura Kola-Tafaj (2016) Legal Protection against Discrimination in SEE, Country Report, Albania, with GTZ - German Cooperation Support.
- <sup>122</sup> As per the LPD definition, "The commissioner is a public legal person that assures the effective protection from discrimination and from every other form of conduct that incites discrimination"(Article 21/1). The commissioner is supported by the Office of the Commissioner (Article 21/2).The commissioner is independent in the exercise of duty and is subject only to the Constitution and law (Article 22). The commissioner is elected by a majority of all the members of the Assembly (Article 23).
- <sup>123</sup> Commissioner on the Protection from Discrimination (2015) Annual Report 2015 (Komisioneri per Mbrojtjen nga Diskriminimi Raport Vjetor), accessed 21.8.2016, <http://www.kmd.al/?fq=brenda&gj=gj1&kid=142>
- <sup>124</sup> For instance, in 2012 LGBT Pro and Alliance LGBT handed a complaint to the CPD against the Deputy Minister of Defence, who at the time was the president of the Monarchy Party as well, for stating publicly that: "LGBTI people should be beaten with batons". Although the PA and Prime Minister condemned the statement, the CPD did not investigate the complaint, declaring that there was insufficient evidence on the case. The LGBTI organizations were concerned about the decision and considered the CPD to be inefficient in dealing with cases of discrimination concerning the LGBTI community. PINK Embassy (2013) Annual Report 2013, accessed 6.8.2016, <http://www.pinkembassy.al/sites/default/files/uploade/2012%20Raport%20i%20Plote%20i%20Shkeljeve%20Te%20Te%20Drejtave%20Te%20Njeriut.pdf>
- <sup>125</sup> Commissioner on the Protection from Discrimination (2014a) Special Report on LGBTI Rights in Albania, (Komisioneri për Mbrojtjen nga Diskriminimi: Raport i veçantë për mbrojtjen dhe respektimin e të drejtave të komunitetit LGBTI në Shqipëri), accessed 11.08.2016, <http://www.pinkembassy.al/sites/default/files/uploade/Raporti%20i%20Vecante%20i%20KMD%20per%20LGBT%202014.pdf>
- <sup>126</sup> OSCE Hate Crime Report 2015: 699 Hate Crimes against LGBTI People Recorded, accessed 22.09.2017, <http://hatecrime.osce.org/what-hate-crime/bias-against-lgbt-people>
- <sup>127</sup> Commissioner on Protection from Discrimination (2014b) Discrimination in Education (Komisioneri per Mbrojtjen nga Diskriminimi; Diskriminimi në arsim në këndvështrimin e Komisionerit për Mbrojtjen nga Diskriminimi), accessed 11.08.2016, <http://www.pinkembassy.al/sites/default/files/uploade/Raporti%20i%20Vecante%20i%20KMD%20per%20LGBT%202014.pdf>
- <sup>128</sup> Source: Interview with the CPD, Mrs. Irma Baraku; the new CPD Strategy is being drafted.
- <sup>129</sup> CPD official document No. 691/Prot., date 30.12.2013, "Recommendations on the project-Law of the Code of Administrative Procedures of the Republic of Albania"
- <sup>130</sup> CPD official document No. 175/Prot., date 07.03.2013, "On amendments of the Law Nr.7895, date 27.01.1995 of the Penal Code of the Republic of Albania, revised"
- <sup>131</sup> Commissioner on the Protection from Discrimination (2015) Annual Report 2015 (Komisioneri per Mbrojtjen nga Diskriminimi Raport Vjetor), accessed 21.8.2016, <http://www.kmd.al/?fq=brenda&gj=gj1&kid=142>
- <sup>132</sup> People's Advocate (2012) *People's Advocate, Special Report on LGBT Rights in 2012* (Avokati i Popullit: Raport special i veprimtarisë së Avokatit të Popullit gjatë viti 2012 për të drejtat e personave LGBT), accessed 11.08.2016, [http://www.avokatipopullit.gov.al/sites/default/files/ctools/Raporti%20final%20per%20LGBT\\_03%20shtator%202012%20oc.pdf](http://www.avokatipopullit.gov.al/sites/default/files/ctools/Raporti%20final%20per%20LGBT_03%20shtator%202012%20oc.pdf)
- <sup>133</sup> Meeting with the People's Advocate, Mr. Igli Totozani, and his staff, in September 2016.
- <sup>134</sup> Idem 138



- <sup>135</sup> People's Advocate (2015) *People's Advocate, Annual Report 2015* (Avokati i Popullit: Raportvjetor, 2015), accessed 10.10.2016, <http://www.avokatipopullit.gov.al/sites/default/files/ctools/RAPORTI%20SHQIP%202015%20.pdf>
- <sup>136</sup> Upon request of the PA, the MoES has informed the PA that the curriculum is being revised and that training of teachers commenced in April 2015, information given in the 2015 Annual PA Report.
- <sup>137</sup> BTI (2016) *Albania Country Report*. Gütersloh: Bertelsmann Stiftung, 2016. Accessed 03.08.2016, [https://www.btiproject.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI\\_2016\\_Albania.pdf](https://www.btiproject.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Albania.pdf)
- <sup>138</sup> Council of Europe (2014) Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Albania from 23 to 27 September 2013, CommDH(2014) 1, 2014, accessed 19.08.2016, <https://wcd.coe.int/ViewDoc.jsp?p=&id=2174147&Site=CommDH&direct=true>
- <sup>139</sup> European Commission (2015) *Albania 2015 Progress Report*, accessed 02.08.2016, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_albania.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf)
- <sup>140</sup> United Nations (2014b) Human Rights Committee: Concluding observation on the second UPR of Albania, CCPR/C/ALB/CO/2, 22 August 2013, accessed 12.08.2016, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/AllIndex.aspx>
- <sup>141</sup> ECRI (2015), ECRI Report on Albania, fifth monitoring cycle, Adopted on 19 March 2015, accessed 10.07.2016, <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Albania/ALB-CbC-V-2015-18-ENG.pdf>
- <sup>142</sup> Parliamentary Resolution 2015 on LGBT people Albania.
- <sup>143</sup> Balili-Mandro and Kola-Tafaj (2016) *Legal Protection against Discrimination in SEE, Country Report, Albania*, with GTZ - German Cooperation Support.
- <sup>144</sup> For more information about the role of civil society organizations please see Chapter 3 of this report.
- <sup>145</sup> Source: Interviews with the leaders of LGBTI people's organizations, conducted during July-September 2016.
- <sup>146</sup> The first activity in an open venue was organized in 17 May 2012. *Pink Embassy 2014 Report* and *PA Special Report on LGBTI People*.
- <sup>147</sup> STREHA LGBTI has held many trainings throughout the country with social workers and state agencies
- <sup>148</sup> OMSA has worked with parents and close family members of young LGBTI people during 2014-2016.
- <sup>149</sup> Alliance Against Discrimination of LGBT People official website, accessed 24.01.2017 <http://www.aleancalgbt.org/en/about-us>
- <sup>151</sup> For more information see: <http://www.gay.al/gay-albania-news/1859-video-the-courageous-albanians-supporting-the-5th-tirana-gay-p-ride> accessed 24.01.2017.
- <sup>152</sup> For more info see: <http://shqiptarja.com/thashethem/1/aleati-dhe-aleatja-me-e-mire-lgbt-shpall-konkursin-e-vitit-141091.html> accessed 24.01.2017.
- <sup>153</sup> PINK Embassy was established in 2009 and registered in court in 2011. It was established by the LGBT Pro Group supported by CRCA since 2006. The official name is PINK Embassy/Pro LGBT Albania.
- <sup>154</sup> OMSA official website, accessed 25.01.2017 <http://www.thealbaniancrowd.org/en/item/open-mind-spectrum-albania-omsa/>
- <sup>155</sup> Idem 154
- <sup>156</sup> Interview with the leader of LGBT Pro, Mr. Kristi Pinderi, and with executive director of CRCA Mr. Altin Hazizaj, held in September 2016. Mr. Hazizaj informed that PINK Embassy has advocated to the People's Advocate for legal changes to the Penal Code. See: <http://ambasadapink.blogspot.al/2015/02/kodi-penal-ne-shqiperi-te-shmange.html> and <http://shqiptarja.com/aktualitet/2731/ambasada-pink-te-perfshihet-orientimi-seksual-ne-kodin-penal-145435.html>
- <sup>157</sup> Interviews with LGBTI organizations leaders of PINK Embassy, Mr. Altin Hazizaj and leader of OMSA, Mr. Arbër Kodra, held in September 2016
- <sup>158</sup> Interview with the leader of the Alliance LGBT, Mrs. Xheni Karaj, held in September 2016
- <sup>159</sup> Poni and Hazizaj (2016a) Community services and the LGBT community in Albania, in *Public Administration Attitudes to LGBTI Service Users: A Study of Six Regions*, accessed 4.9.2016, <http://www.pinkembassy.al/sites/default/files/uploade/SHE%CC%88RBIMET%20VENDORE%20DHE%20KOMUNITETI%20LGBT%20NE%20SHQIPERI%202016.pdf>
- <sup>160</sup> Idem 164
- <sup>161</sup> National Democratic Institute (2015) *Public Opinion Poll on LGBTI issues: Western Balkans*, accessed 10.08.2016, [https://www.ndi.org/LGBTI\\_Balkans\\_poll](https://www.ndi.org/LGBTI_Balkans_poll): Only 10 percent of surveyed people agreed that LGBTI people have the right to adopt children, 37 percent agreed that the survived partner has the right to inherit tenancy and pension, and to share the property in case of a dissolved partnership.
- <sup>162</sup> Poni and Hazizaj poll: 42 percent of them agree on legal partnership; women are more tolerant than men, with 45 percent accepting same-sex marriage compared with only 33 percent of men. Public officials tended to be more tolerant because they are more highly educated and have received some training from CPD, PA and LGBTI organizations since 2010.



- <sup>163</sup> NDI poll: Only 36 percent of the general public think that LGBTI people face some form of psychological violence, when in fact 76 percent of LGBTI people report having been the subject of psychological abuse including cruel jokes, demeaning comments, insults and threats of physical violence, with familiars and friends as principal perpetrators.
- <sup>164</sup> NDI poll: 60 percent of the general public think that LGBTI people should not exhibit their SOGI. The figure is even higher for family and friends, 76 percent of whom think that LGBTI people should hide their SOGI from others in order not to bring shame on themselves, their families and friends.
- <sup>165</sup> NDI poll: Only 6 percent of families would support an LGBTI member, while the rest would try to hide it from others, stop communicating and chase them away from home.
- <sup>166</sup> NDI poll: 48 percent of the public think homosexuality is a sickness and 42 percent would try to find a cure for a homosexual person.
- <sup>167</sup> Balli, Brikena (2015) *Reduce Violence against Women with a Focus on the LBT Community in Albania*, Tirana: Alliance against Discrimination of LGBT. Accessed 25.01.2017 <http://historia-ime.com/wp-content/uploads/2015/12/Libri-Anglisht.pdf>
- <sup>168</sup> Idem 23
- <sup>169</sup> There are no official statistics on hate crimes on the grounds of SOGI, except for one case in 2009 relating to a transgender sex worker who was murdered by their client.
- <sup>170</sup> Parliament of the Republic of Albania (2014) Process-Verbal on People's Advocate Special Report on LGBT (Shqyrtimi i Raportit të veçantë të Avokatit të Popullit "Për të drejtat e personave LGBT"; Nënkomisioni për të Drejtat e Njeriut dhe Nënkomisioni për Çështjet e të Miturve, Barazisë Gjinore dhe Dhunës në Familje, PROCESVERBAL, Datë 02.12.2014), accessed 1.08.2016, [https://www.parlament.al/wp-content/uploads/2015/11/02\\_12\\_2014\\_copy\\_1\\_20725\\_1.pdf](https://www.parlament.al/wp-content/uploads/2015/11/02_12_2014_copy_1_20725_1.pdf)
- <sup>171</sup> Home Office (2014) Country Information and Guidance, Albania: Sexual Orientation and Gender Identity, 13 October 2014, accessed 15.06.2016, <https://www.gov.uk/immigration-operational-guidance/asylum-policy>
- <sup>172</sup> Council of Ministers (2013) Ministerial Code of Ethics (Kryeministria Kodi etik ministror), accessed 12.08.2016, <http://www.kryeministria.al/al/newsroom/lajme/kodi-etik-ministror&page=110>
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- <sup>179</sup> ILGA Europe (2010) ILGA-Europe's submission to the European Commission's 2010 Progress Report on Albania Brussels, May 31, 2010, [http://www.ilga-europe.org/sites/default/files/submission\\_to\\_ec\\_2010\\_progress\\_report-albania\\_www.pdf](http://www.ilga-europe.org/sites/default/files/submission_to_ec_2010_progress_report-albania_www.pdf)
- <sup>180</sup> ILGA Europe (2016) *Enlargement Review: Albania 2016*. Accessed 20.8.2016, [http://www.ilga-europe.org/sites/default/files/enlargement\\_review\\_albania\\_2016.pdf](http://www.ilga-europe.org/sites/default/files/enlargement_review_albania_2016.pdf)
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- <sup>189</sup> Source: Focus group with gay people, conducted in September 2016.
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- <sup>191</sup> Source: Interviews with leaders of PINK Embassy and Pro LGBT.
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- <sup>239</sup> Gazeta SOT accessed 27.10.2016 <http://www.sot.com.al/opinion-editorial/%E2%80%9Cmartesat-gay%E2%80%9D-homoseksual%C3%ABt-zbardhin-tradhtin%C3%AB-e-ram%C3%ABs-do-ta-nd%C3%ABshkojm%C3%AB>
- <sup>240</sup> Gazeta Rilindja Demokratike accessed 27.10.2016 [http://www.rilindjademokratike.com/index.php?option=com\\_content&view=article&id=14319:rama-ligj-per-martesen-mes-homoseksualeve&catid=46:actual&Itemid=106](http://www.rilindjademokratike.com/index.php?option=com_content&view=article&id=14319:rama-ligj-per-martesen-mes-homoseksualeve&catid=46:actual&Itemid=106)
- <sup>241</sup> Gazeta Shqip accessed 25.01.2017 <http://www.gazeta-shqip.com/lajme/2013/03/11/spahiu-ne-kukes-do-te-ndalojme-martesat-e-homoseksualeve-ligj-per-ndalimin-e-abortionit/>
- <sup>242</sup> Balkaninsight accessed 25.01.2017 <http://www.balkaninsight.com/en/article/albania-official-anti-gay-comments-condemned>
- <sup>243</sup> LGBTI organizations filed complaints against politicians E.S and A.L, for insinuating that homosexuals are a danger to society, equating homosexuality with paedophilia, and using language inciting public hatred against LGBTI people. The CPD sanctioned both politicians with a fine. For more information see the CPD Special Report on LGBTI people 2014 (Komisioneri për Mbrojtjen nga Diskriminimi: Raport i veçantë për mbrojtjen dhe respektimin e të drejtave të komunitetit LGBTI në Shqipëri), accessed 11.08.2016, <http://www.pinkembassy.al/sites/default/files/uploade/Raporti%20i%20Vecante%20i%20KMD%20per%20LGBT%202014.pdf>
- <sup>244</sup> Historia-ime, accessed 25.01.2017, <http://historia-ime.com/2016/05/11/ekskluzive-spoti-shqiptar-i-nje-familjeje-lezbike-me-femije/>
- <sup>245</sup> The Constitution does not mention SOGI as prohibited grounds for discrimination (Article 18)
- <sup>246</sup> The Family Code recognises only heterosexual marriage and civil registered partnership (Articles 163 and 164)
- <sup>247</sup> The Civil Procedure Code shares the burden of proofs between claimant and defendant, the improvement consist in shifting the burden of proof to the defendant only.
- <sup>248</sup> The Law on Reproductive Health allows access to ART only to heterosexual married couples.
- <sup>249</sup> The Law on Asylum does not recognize SOGI as specific grounds for asylum seeking.
- <sup>250</sup> Idem 15.
- <sup>251</sup> The Penal Code does not provide protection from transphobic hate speech (Article 265) or from homophobic and transphobic hatred (Article 119/a/b); it does not criminalise homophobic and transphobic violence for the crimes of threat and harm on the grounds of SOGI (Article 84); it criminalizes consensual sex work and penalizes trans sex work as "prostitution" (Articles 107-113); refers to forced same-sex relations as "homosexual" (Article 105).
- <sup>252</sup> Courts, prosecution offices and police departments are all responsible for applying the legislation in force and for providing protection to victims of criminal offences. The General Police Department has appointed a focal point responsible for crimes against LGBTI people motivated on the grounds of SOGI.
- <sup>253</sup> All training is provided by LGBTI People's organizations in cooperation with MoES, CPD and PA offices.
- <sup>254</sup> The Labour Code was amended in 2015 but the application started in 2016, six months after publication in the Official Gazette.
- <sup>255</sup> NICG Group is the government mechanism for implementation of the NPA; It was established in October 2016.
- <sup>256</sup> LGBTI NPA 2016-2020 is the policy document produced at the request of the Parliamentary Resolution of 2015.
- <sup>257</sup> All legislation improvements on equality and non-discrimination of LGBTI people in Albania are a result of the recommendations issued by PA and CPD.
- <sup>258</sup> All discrimination complaints have been addressed by organizations.
- <sup>259</sup> LGBTI people organizations have provided hundreds of training sessions in schools, police departments, health institutions and university premises; they have produced many informative and educative materials in printed and electronic versions. Their websites provide information about LGBTI people and human rights for many people. The social media sites that they run provide a space for young people to get informed about LGBTI issues and to come out as LGBTI people in a safe environment of peers and human rights defenders. For more details please refer to Chapter 3 in this report, and to the organizations' websites.
- <sup>260</sup> The STREHA shelter was opened in Tirana in 2014 by Pro-LGBT and Alliance LGBT.
- <sup>261</sup> Resistance towards recommendations intended to redress the violation of human rights and discrimination against LGBTI people was the most serious criticism of public institutions and public officials made by PA and CPD during interviews with them and their staff. For more information about which recommendations were fulfilled and which were rejected, see the sections on the CPD and PA in Chapter 3, and refer also to the CPD and PA Special and Annual Reports.

- <sup>262</sup> Balli, Brikena (2015) *Reduce Violence against Women with a Focus on LBT Community in Albania*, Tirana: Alliance against Discrimination of LGBT; Accessed 25.01.2017 <http://historia-ime.com/wp-content/uploads/2015/12/Libri-Englisht.pdf>
- Poni and Hazizaj (2016b) *Discrimination against LGBTI Students in Schools: A Study of Six Regions*. Tirana: PINK Embassy Publications (forthcoming publication). Preliminary results in: <http://www.pinkembassy.al/studimi-i-ambasades-pink-adoleshentet-lgbt-viktima-te-dhunes-bashkemoshatarebulizmit>
- <sup>263</sup> Idem 18.
- <sup>264</sup> Headhunter (2016) *Annual Report: LGBTIQ Employment Equality Index*, accessed 12.06.2016, <http://www.headhunter.al/en-us/lgbtq-index>
- <sup>265</sup> Poni and Hazizaj (2016a) Community Services and the LGBT people community in Albania, in *Public Administration Attitudes to LGBTI Service Users: A Study of Six Regions*. Tirana: PINK Embassy Publications, accessed 4.9.2016 <http://www.pinkembassy.al/sites/default/files/uploade/SHE%CC%88RBIMET%20VENDORE%20DHE%20KOMUNITETI%20LGBT%20NE%20SHQIPERI%202016.pdf>
- <sup>266</sup> Some recommendations are based on Astraea list of recommendations for the LGBTI organizations in the Western Balkans: Luft Aliza, Filipović Senka, Miller Kellea and Schneeweis Irene (2015) *Western Balkans LGBTI: Landscape Analysis of Political, Economic and Social Conditions*. Astraea Lesbian Foundation for Justice, accessed 30.11.2016, <https://www.astraeaoundation.org/uploads/files/Reports/Astraea%20Western%20Balkans%20Landscape%202015.pdf>.





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