

**Liria dhe mbrojtja për Lezbiket,  
Homoseksualët, Biseksualët  
dhe Transgjinatorët në Kosovë**

**Sloboda i zaštita za lezbijke,  
homoseksualce, biseksualne  
i transrodne osobe na Kosovu**

**Freedom and Protection for  
Lesbians, Gays, Bisexuals  
and Transgender in Kosovo**



YOUTH INITIATIVE FOR HUMAN RIGHTS  
NISMA E TË RINJVE PËR TË DREJTAT E NJERIUT  
INICIJATIVA MLADIH ZA LJUDSKA PRAVA

**CSGD**

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# Youth Initiative for Human Rights in partnership with Center for Social Group Development

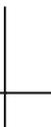
## Freedom and Protection for Lesbians, Gays, Bisexuals and Transgender in Kosovo

November 2013



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## I. Executive Summary

Coming out of a socialist regime, the issue of rights of sexual minorities has been neglected in Kosovo. Even in the period after the end of the conflict in 1999, the public debate on the rights of lesbians, gays, bisexuals and transgender people as human rights has not taken place. The discussion on the situation of the LGBT community and their rights takes place behind closed doors, amongst a small group of supportive donor, international and civil society organizations, and sparse information is shared with the public. Yet, being an openly LGBT person in Kosovo is a daily fight for acceptance, equal treatment, personal security and against engrained prejudice. This has led to the creation of a supportive community of LGBT persons, but one that remains in the margins of society.

The legal framework of Kosovo provides wide guarantees for human rights, stemming both from its Constitution and the Anti-Discrimination Law, which is one of the most advanced anti-discrimination laws in the region. Through its Constitution, Kosovo gives precedence to international law and takes upon itself the direct applicability of the Universal Declaration of Human Rights and the European Convention for Protection of Human Rights and Fundamental Freedoms (Article 22). Subsequently, the jurisprudence from the European Court of Human Rights is also applicable. In national legislation, the inclusion of sexual orientation as a protected ground in the Anti-Discrimination Law was a major achievement.

This report combines semi-structured interviews with members of the LGBT community, questionnaires of duty bearers and service providers, with desk research. It seeks to document the situation of the LGBT community in Kosovo, understand the main aspects of life where they face difficulties and assess the awareness and approach of public officials and service providers towards LGBT persons.

The research shows that LGBT persons face high levels of verbal abuse, generally live in fear and their plight is neglected by the media. Over 40 percent of the total sample of respondents from the LGBT community said they were verbally abused publicly, and about 10 percent had been beaten or threatened. Among all respondents, regardless whether they are openly gay or not, 50 percent say they are afraid, due to widespread homophobia and the cases of abuse. Despite these conditions, respondents in our sample feel that their issues are not given attention by the media.

From duty bearers, questionnaires were distributed to judges, prosecutors, lawyers, the police and human rights officials, as the main bodies responsible for upholding the legal system and promoting human rights. Judges and prosecutors have dealt with a very low number of cases involving LGBT issues. While there is a general trend of acceptance of LGBT rights- for half of the interviewed judges this is a concept which is being pressed onto Kosovo by the international community. Overall, the acceptance and understanding

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of the situation and issues of the rights of the LGBT community is higher among police officers and human rights officials; however it is not at a desirable level.

In the medical profession, like in others, the results are mixed. Even though medical professionals predominantly say that they believe all patients, regardless of their sexual orientation, should be given equal treatment, prejudice surfaces when asked other questions. Medical professionals were most open to accepting cases from the LGBT community—around 90% were at ease. However, this seeming tolerance is contrasted with a high level of prejudice whereby one in four medical professionals claim to be able to determine whether a person is LGBT based on their behavior or looks.

It should be noted that professionals across fields were reluctant to fill in the questionnaires. This was especially prevalent among medical professionals and lawyers. In other cases, officials refused to answer sensitive questions and in some cases they filled in the questionnaire to reflect a level of tolerance, however verbally expressed the opposite. Therefore, in the research process itself, the clash between expected attitudes and existing social norms became obvious: duty bearers and service providers were aware of what they should say for the purposes of the study, despite holding opposite views. In addition, the difficulty of getting officials to participate in the study strengthens the argument that there is reluctance to address LGBT issues.

The overall findings of the research suggest that there is a low level of awareness about the specific issues that concern the LGBT community. Moreover, despite high prevalence of abuse, very few of the said abuses are reported to the relevant authorities and not all are followed up. To that end, the recommendations call for a more proactive role of the state in promotion of equal treatment and raising awareness among public officials of their responsibility to enforce the applicable legislation in Kosovo.

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## II. Introduction

Assaults and abuse against LGBT persons, or persons who are perceived to be LGBT, are not uncommon in Kosovo –of this speak both stories collected during the course of this research and the incidents that have been reported in the media. On September 9, 2013, the judicial process started in lieu of the attacks that took place in December 2012 against the launch of the “SEX” issue of Kosovo2.0 magazine, which was interpreted by some extremist groups as an event supporting the LGBT community. A couple of nights later, the offices of Libertas, an NGO working with the LGBT community, were also attacked. Even though the magazine dealt with a broad range of issues involving sex and significantly less attention was given to the attack of Libertas, these incidents helped stir the debate on the situation of the LGBT community as an underserved part of society. The public discussion that ensued marked the beginning of a tremendous path that Kosovo will have to follow in order to achieve the necessary societal and legal developments, which will allow all citizens of Kosovo to participate in public life with their civil rights ensured. Unfortunately, the attacks in December are only a little piece of a larger puzzle of threats, physical and verbal abuse affecting on a daily basis members of the LGBT community and that remains far from the media limelight.

The issue of the rights of sexual minorities has had limited attention by the state, civil society and media sectors, as well as the donor community partly due to Kosovo's political and socio-economic challenges, perceived to be of higher priority. Since the end of the conflict in 1999, the biggest achievement in this area was the inclusion of sexual minorities in the anti-discrimination clause in the Constitution of the Republic of Kosovo; however, this has not necessarily resulted in improving the situation on the ground. The lesbian, gay, bisexual and transgender (LGBT) community functions within an organized and secretive network of individuals and a few organizations. The issue based NGO sector also serves as service-delivery and support organizations on a broad set of issues –ranging from coming out to dealing with abuse.

In Kosovo's public life there are no visible signs of the LGBT community and certainly no gay bars or clubs. Social conventions and limited socio-economic opportunities dictate that most young people in Kosovo live with their families until they marry; “coming out” as an LGBT person can be associated with losing family support and there have also been instances when members were kicked out of their family homes<sup>1</sup>. Furthermore, as family ties remain strong, undue pressure is applied to marry. Nevertheless, the LGBT community in Kosovo is very much alive and recently a small number of LGBT individuals have dared to break the silence and speak out.

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<sup>1</sup> Fauchier, Agathe. “Kosovo: what does the future hold for LGBT people?”. Forced Migration. Refugee Studies Centre. Oxford University.

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While gays and lesbians are slowly working towards gaining more visibility and social acknowledgement, this is far from being the case for the sub-group of trans-genders<sup>2</sup>.

This report aims to document the environment in which LGBT community lives and works, and the extent of protection and support they can find from state institutions and in public services. It intends to fill an informational gap about the difficulties this community faces and documents areas where protection of fundamental rights needs strengthening. The report builds on previous limited research conducted on this topic, as well as on qualitative and quantitative interviews and questionnaires filled in by members of the LGBT community in Kosovo; and experts and professionals, identified as primary professionals where members of the LGBT community would address their issues. Thus, semi-structured interviews were conducted with members of the LGBT community, police, judges, prosecutors, lawyers, medical professionals and human rights officials.

This report begins with the methodology used for the research of the report. It continues with an overview of the legal framework for the protection of rights juxtaposed with the situation in the region and Europe. The data found emerging from the research is disaggregated to trace patterns across target groups of interviewees. The report concludes with a number of recommendations based on this research as well as suggestions by the respondents.

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<sup>2</sup> Ibid.

### III. Methodology and Basic Demographics

This report is based on primary and secondary research, consisting of semi-structured interviews around Kosovo (see Figure 2) and desk-review of existing research. The quantitative analysis is based on semi-structured interviews targeting LGBT persons, duty bearers and service providers, totaling 308 (three-hundred and eight) questionnaires. To that end 88 (eighty-eight) questionnaires were distributed to members of the LGBT community in Kosovo, 17 (seventeen) questionnaires to judges, 8 (eight) to prosecutors, 17 (seventeen) to lawyers, 30 (thirty) to police officers, 59 (fifty-nine) to human rights officials in central and local level institutions, and 89 (eighty-nine) to medical professionals. In all, this research is a comprehensive overview of prevalent perceptions in Kosovo affecting the quality of services and protection offered to this community. It provides reliable and uniquely wide-ranging insights on issues regarding the LGBT community, thus offering a sound basis for future government and civil society interventions.

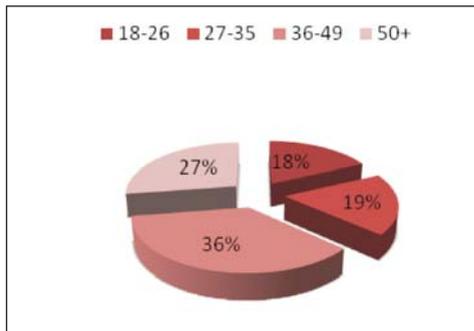


Figure 1 Age demographics of the interviewees

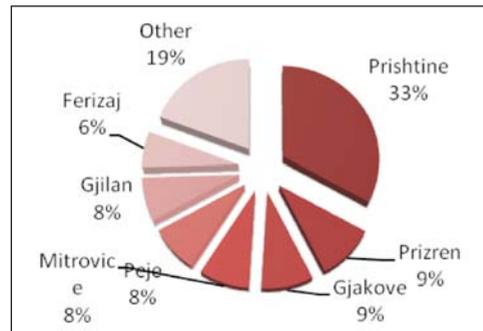


Figure 2 Questionnaire distribution by municipality

About 45 percent of the questionnaires were distributed to people between 18-35, and the remainder to ages above 36. Such distribution reflects the target of the research which was established professionals working in their field. Interviewees were not asked to disclose their gender, apart from LGBT persons, where about 25% of the surveyed persons are female. As far as ethnic groups and religion are concerned, 97% of the interviewees declared themselves as Albanian and over 88% identified as belonging to the Muslim community, 3.6 percent declared themselves Catholic, 4 percent as not religious, 1.3 percent as atheists, 1 percent Orthodox and 1 percent Protestants. The ethnic and religious composition of the sample is representative of the demographics for Kosovo<sup>3</sup>. Of the sample population, 20 percent declared themselves to be practicing religion regularly and 38 percent to be practicing it sometimes. 28 percent of the sample population does not practice religion at all.

<sup>3</sup> Kosovo Census 2011.

## IV. Legal Framework

### Kosovo's Legal Framework

The protection of rights of sexual minorities is a basic right stemming from the established legal framework of Kosovo and from international obligations and treaties, which Kosovo has committed to. Domestically, the Constitution of Kosovo and the Anti Discrimination Law are the two main pillars providing protection from discrimination for the LGBT community. Since Kosovo is not a member of the United Nations, it is not a signatory to international treaties. However, Article 19 of the Constitution, gives precedence to ratified international agreements and legally binding norms of international law over the law of the Republic of Kosovo, and Article 22 refers to the direct applicability of international agreements and instruments, including the Universal Declaration of Human Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols<sup>4</sup>.

The Anti Discrimination Law is cornerstone legislation for any society that seeks to be based upon principles of equal and fair treatment for all. Kosovo's law is based on three basic principles including the principle of equal treatment, equal representation and tolerance between people<sup>5</sup>. The law has been in force since September 2004 (Law No.2004/3), Article 2 (a) of which outlines as one of its principles the prohibition of discrimination on 16 grounds including sexual orientation. The Anti-Discrimination Law is applied to a wide range of rights and forms of participation in public life - including employment and promotion, access to vocational training, membership in organizations, social protection and social advantages, education, access to housing, access to property, fair treatment before tribunals, personal security, participation in public affairs, access to public places. The law builds upon two key European directives, Council Directive 2000/43/EC of June 2000, implementing the principle of equal treatment between persons irrespective of race or ethnic origin, and Council Directive 2000/78/EC of November 2000, which sets out a general framework for equal treatment in employment, prohibiting discrimination based on religion, disability, age or sexual orientation<sup>6</sup>. The institution of the Ombudsperson is set out as an authorized body to receive and investigate complaints concerning violations of rights based on discrimination.

Even though Kosovan society remains largely traditional and conservative, Kosovo is one of only ten countries that have banned discrimination on the ground of sexual orientation in its constitution<sup>7</sup>.

<sup>4</sup> Constitution of the Republic of Kosovo.

<http://www.kryeministri-ks.net/repository/docs/Constitution1Kosovo.pdf>

<sup>5</sup> "Zbatimi i Ligjit Kundër Diskriminimit: Sfidë për Kosovën." OSCE. Qershor 2007

<sup>6</sup> "Zbatimi i Ligjit Kundër Diskriminimit: Ligji nr. 2004/32". YIHR. Janar 2007

<sup>7</sup> Fauchier, Agathe. "Kosovo: what does the future hold for LGBT people?". Forced Migration. Refugee Studies Centre. Oxford University.

Kosovo's constitution, which was drafted through a participatory process in 2007, draws heavily from the principles enshrined in constitutions of Western Europe, specifically Germany and France. Kosovo's constitution is seen as one that upholds the highest international and European human rights standards and therefore includes the term "sexual-orientation" in the anti-discrimination article (Article 24). Furthermore, the article on the definition of marriage was liberally drafted and does not make any specific reference to gender. However, it refers to the Family Law of Kosovo (Law nr. 2004/32) where marriage is defined to be between a man and woman.

In the judicial system designed by the Kosovo Constitution, the European Convention for Human Rights is paramount due to its direct applicability stemming from Article 22 but also because according to Article 53 "human rights and fundamental freedom guaranteed by this Constitution shall be interpreted consistent with the court decisions of the European Court of Human Rights (ECtHR)"<sup>8</sup>. Therefore landmark rulings in upholding the rights for same-sex couples and prohibiting incitement of hate speech, such as the case of *Ladele and McFarlane v. the United Kingdom* (application nos. 51671/10 and 36516/10) and *Vejdeland and Others v. Sweden* (application no. 1813/07) are applicable in Kosovo. Ms. Ladele and Ms. MacFarlane had been dismissed from work after they had refused to provide civil partnerships and provide counseling, respectively, to same sex couple based on their religious belief<sup>9</sup>. The court found that there had been no violation of the right to freely practice religion. In effect, the ruling embeds the norm that personal beliefs cannot serve as a justification for discriminating people based on sexual orientation in service provision. In the case of *Vejdeland and Others v. Sweden*, the court ruled that there had been no violation of freedom of expression of the European Convention on Human Rights, in the applicants' conviction for distribution of leaflets considered to be offensive to homosexuals,<sup>10</sup> an important judgment as it dealt for the first time with hate speech towards homosexual people.

Contrary to gays and lesbians, transgender people are not acknowledged by the Constitution and although there are no laws actively criminalizing transgender behavior, this cannot be taken to mean that transgender people's rights are protected. In many EU countries, discrimination in training and employment due to gender reassignment is considered to be a form of sex discrimination<sup>11</sup>.

<sup>8</sup> Guy Van Craen dhe Emilio Gatti. "Reasonable time." European Rights.

URL: [www.europeanrights.eu/public/.../secondo\\_commento\\_gatti\\_testo.do](http://www.europeanrights.eu/public/.../secondo_commento_gatti_testo.do)

<sup>9</sup> Vendimi i plotë i GJEDNJ: <http://hudoc.echr.coe.int/webservices/content/pdf/001-115881>

<sup>10</sup> Vendimi i plotë i GJEDNJ:

<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx#%7B%22dmdocnumber%22%3A%5B%22900340%22%5D%2C%22display%22%3A%5B0%5D%7D>

<sup>11</sup> European Agency for Fundamental Rights. "Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation – United Kingdom." 2008

## Overview of Situation in the Western Balkans

Across the region of the Western Balkans, the LGBT community faces a strenuous legal and societal environment, fighting against entrenched social norms and being confronted by maltreatment in public space. Discrimination is widespread across all countries in the Western Balkans and there is generally low public awareness on the prevalence of discrimination in these societies.

In the case of Albania, homosexuality was decriminalized in 1995, but tolerance towards the LGBT population is lacking at best. Former Albanian Prime Minister, Mr. Sali Berisha, as early as 2009 declared to be in favor of same-sex marriage<sup>12</sup>. His statements were later followed with the adoption of the Law on Anti-Discrimination in February 2010, banning discrimination on (among others) sexual orientation and gender identity and establishing the Commissioner for Protection against Discrimination<sup>13</sup>. Homophobic statements made by two politicians in 2011 were thus investigated by the Commissioner<sup>14</sup>. In the latest EU Progress Report, it was noted that while some legislation is in place, the authorities need to apply the existing legislation<sup>15</sup>. Furthermore, the report positively assessed the amendment in the Criminal Code to take aggravating circumstances into account for offences relating gender identity and sexual orientation, among others.

The Law against Discrimination in Bosnia and Herzegovina was adopted in August 2009, and the authorized body for monitoring the implementation of the law is the Ombudsman Office<sup>16</sup>. Most recently the House of Representatives adopted hate crime legislation that is inclusive of gender identity and sexual orientation<sup>17</sup>. However, the amendments failed due to the lack of support in the Federation's House of Peoples, thus hate speech and hate crime continue to be a concern<sup>18</sup>. A positive step was the willingness of the law enforcement body in the Sarajevo Canton to appoint a direct contact in every police station for LGBT persons<sup>19</sup>.

In 2012, the European Commission found that Macedonia's anti-discrimination legislation was not in line with the *acquis*, since discrimination on the grounds of sexual orientation was still omitted. In 2013, the situation worsened after reported violent attacks against the LGBT Support Centre in Skopje<sup>20</sup>.

<sup>12</sup> "Berisha: Legalizim Martesave Gay". Koha Jonë. <http://www.kohajone.com/artikull.php?idm=45138>

<sup>13</sup> Ligji për mbrojtjen nga diskriminimi.

[http://www.asp.gov.al/index.php?option=com\\_content&view=article&id=213%3Aligj-per-mbrojtjen-nga-diskriminimi&catid=61%3Aligje-e-vendime&Itemid=170&lang=sq](http://www.asp.gov.al/index.php?option=com_content&view=article&id=213%3Aligj-per-mbrojtjen-nga-diskriminimi&catid=61%3Aligje-e-vendime&Itemid=170&lang=sq)

<sup>14</sup> Human Rights in Albania. Civil Rights Defenders. October 2012. <http://www.civilrightsdefenders.org/country-reports/human-rights-in-albania/>

<sup>15</sup> "Albania 2013 Progress Report." European Commission.

<sup>16</sup> Human Rights in Bosnia and Herzegovina. Civil Rights Defenders. October 2012.

<sup>17</sup> "Bosnia adopts trans-inclusive hate crime law." Trans Gender Europe. July 27, 2013.

<sup>18</sup> "Bosnia and Herzegovina 2013 Progress Report." European Commission.

<sup>19</sup> *Ibid.*

<sup>20</sup> "Macedonia: Spate of Anti-Gay Attacks." Human Rights Watch. July 2013.

Moreover, homophobic media content persists and authorities have taken limited actions in addressing the discrimination against the LGBT community. Boris Dittrich, LGBT rights advocacy director, has accused the Macedonian government of turning a blind eye to anti-gay thugs, as no government official has publicly spoken out against the blatant attacks<sup>21</sup>.

Lately there has been increased discussion in Montenegro on discrimination against LGBT persons. The prevalence of homophobia is a consequence of social norms, lacks of knowledge, and inadequate legal and institutional framework combined with limited resources<sup>22</sup>. In 2012, the Ombudsman submitted an initiative to the Parliament for the adoption of a Law on the Union of the Same Sex Partners, but it is not realistic to expect that the law will be adopted in the near future<sup>23</sup>. A positive step has been the adoption of the government strategy for enhancing the quality of life of lesbian, gay, bisexual, transgender and intersex persons for 2013-2018. Moreover, the first Pride Parade took place in Budva in July 2013 and was supported by the authorities; however there were assaults against the participants<sup>24</sup>. A second Pride took place in Podgorica on October 20th, 2013 under heavy police protection, but, which nonetheless, resulted in violence by hooligans protesting against the event and evacuation of the participants in the pride<sup>25</sup>.

In Serbia, despite prohibition of discrimination based on sexual orientation contained in several laws and the decision of the Constitutional Court in December 2011 that the ban of the Pride Parade in 2009 was unconstitutional, the general perception among LGBT persons is that the judicial system cannot provide adequate protection. This year the Serbian government banned for the third year in a row the Pride Parade in Belgrade, despite forceful opposition from international organizations<sup>26 27</sup>. The anti-discrimination legislation is broadly in line with European standards and a comprehensive anti-discrimination strategy 2013-2018 was adopted in June, which also targets LGBTI persons. Moreover, there has been more active processing of discrimination cases against LGBT population<sup>28</sup>. The appellate court in Novi Sad delivered a landmark decision and set a legal precedent in Serbia after fining a man for discriminating against his work colleague on the ground of the latter's sexual orientation<sup>29</sup>.

<sup>21</sup> Ibid.

<sup>22</sup> "Report on the implementation of the Council of Europe Committee of Ministers' Recommendation CM/Rec (2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity." JUVENTAS. Podgorica, 2012.

<sup>23</sup> Montenegro Human Rights Report. Civil Rights Defenders. 2012

<sup>24</sup> Montenegro 2013 Progress Report." European Commission.

<sup>25</sup> Parada u Podgorici održana uz ogromno obezbeđenje i nemire. Tanjug. October 20, 2013. Tanjug.rs

<sup>26</sup> Serbia: UN rights office urges protection of gay rights after pride parade is cancelled. United Nations. October 1, 2013.

<sup>27</sup> Country Report: Serbia. Civil Rights Defenders. 2012

<sup>28</sup> Serbia 2013 Progress Report. European Commission.

<sup>29</sup> Barlovac, Bojana. "Serbia Court Delivers Landmark Verdict." Balkan Insight. January 10, 2013.

Having in mind the willingness of the Balkan countries to join the EU, in the field of human rights the EU has used a carrot and stick approach. Compared to the accession of 2004 and 2007, the EU has increased the pressure on candidate countries to follow and uphold human rights principles<sup>30</sup>. While some legal changes have taken place, there is a long and windy road ahead.

### Practices from the EU Member States

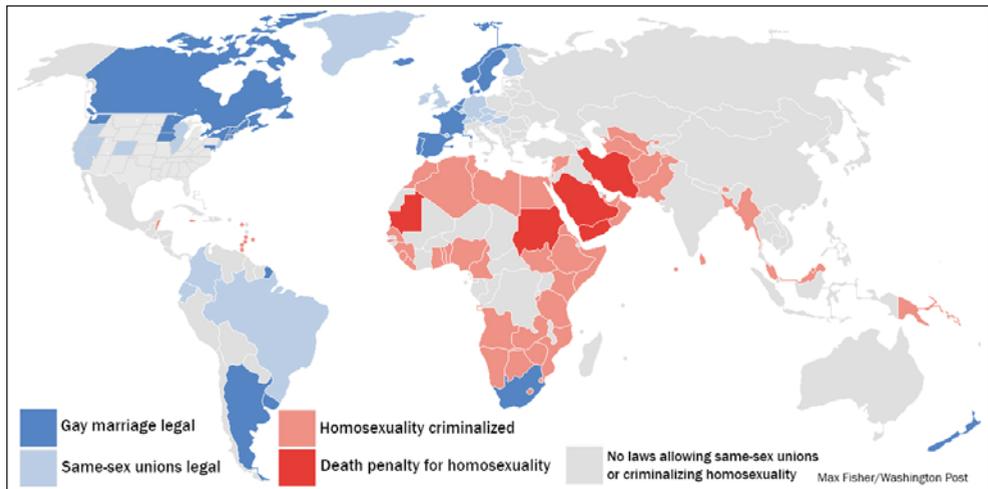


Figure 3 Map of the world, indicating legality of same-sex marriage and severity of penalties  
(Source: Max Fisher/ Washington Post)

The map above gives a depiction of the situation for sexual minorities around the world. The dark blue areas indicate parts of the world where same-sex marriage is legal and the lighter shade of blue indicates that same-sex unions are legal. There are only a few countries in the world where same-sex marriage is possible, in the European Union it is only in the UK, Spain and The Netherlands that same-sex couples can legally marry, however civil unions are more widely available as a form of legalizing relationships.

The initial steps to manifest the commitment of the EU to promote human rights was the inclusion of Article 19 in the 1997 Treaty of Amsterdam, which empowered the EU to “take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.”<sup>31</sup> In 2000, this led to the Council Directive 2000/78/EC which secures equal treatment for all in the workplace, thus banning discrimination in employment on a number of grounds including sexual orientation.

<sup>30</sup> Kochenov, Dimitry. 2006. “Democracy and Human Rights Not for Gay People: EU Eastern Enlargement and Its Impact on the Protection of the Rights of Sexual Minorities.”

<sup>31</sup> The Treaty of Amsterdam. 1997. <http://www.eurotreaties.com/amsterdamtreaty.pdf>

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Considering the number of countries affected, counting in also countries which want to join the EU, this directive is possibly one of the most important legislative initiatives in the history of LGBT rights<sup>32</sup>.

Additionally, all EU member states are obliged to establish national equality bodies, which are independent bodies aiming to promote equal treatment, research discrimination as well as provide advisory services to victims. These bodies are obligatory in the area of race and gender discrimination by EU Law, but not sexual orientation. In the European Network of Equality Bodies there are currently 38 bodies coming from 31 different countries, of which 30 members have a mandate in relation to lesbian, gay, bisexual, trans and intersex people in employment and 22 in provision of goods and services<sup>33</sup>. Sweden has a specific Ombuds-organisation (HomO) dealing with sexual orientation discrimination and this has shown itself to be very successful in gaining the trust of victims suffering from homophobia<sup>34</sup>.

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<sup>32</sup> European Union and LGBT Rights. ILGA Europe.

<sup>33</sup> "Equality bodies promoting equality and non-discrimination for LGBTI people." EQUINET. 2013

<sup>34</sup> European Agency for Fundamental Rights. "How EU Law Offers Protection from Sexual Orientation Discrimination." 2009

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## V. Being LGBT in Kosovo

The LGBT community in Kosovo overall feels intimidated and fearful; the main support comes from their close friends and other LGBT persons. The interviewed group had mixed demographics, with a special focus on young people, whereby 62 percent of the respondents were 18-26 years old, 23 percent were between the ages of 27-35, and 15 percent fell in the 36-49 age group demographic. For 90% of the sample, their highest educational attainment is secondary (67%) or primary education (23%) and 25 percent of the respondents said that they were still students. As far as employment is concerned, only 28 percent reported to be employed –of whom mostly in the private or civil society sector, which is lower than the national average employment rate even for young people.

Of the 88 LGBT members interviewed, 61 percent were gay or lesbian, 25 percent bisexual and 14 percent transgender. Almost one in four (23%) respondents was either married or in a heterosexual relationship. Over 80% of the respondents declared that they were either sometimes open about their sexual orientation or never, and only 1 respondent said she/he was openly gay.

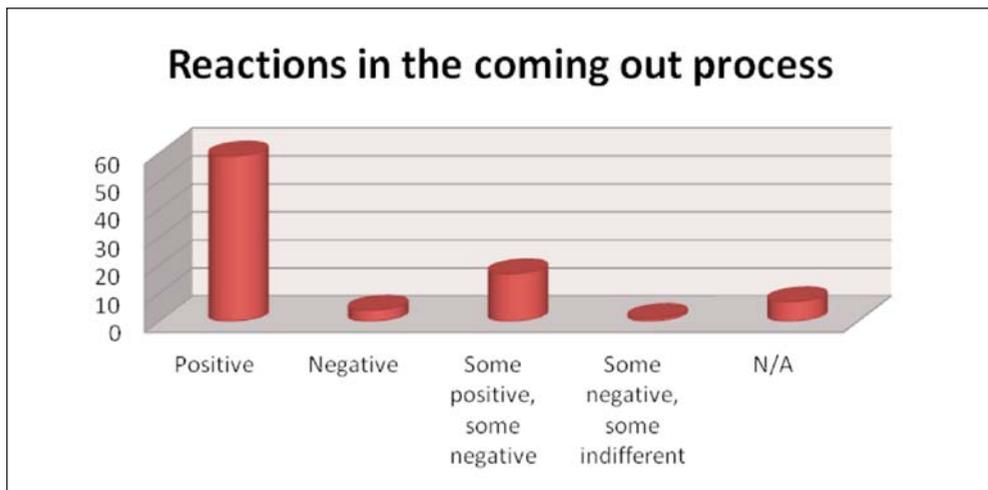
### Being Out

In the context of Kosovo, being out does not equate to being openly gay. Instead, it is mainly a process of LGBT persons opening up about their sexual orientation to people they expect will have a positive response. Therefore, according to the data, in this process of understanding, accepting, and valuing one's sexual identity, many respondents seem to be met with open arms. "My friends accepted me –they told me it is my life and I should live it as I please. My brother, too: he told me we were brothers and it did not matter if I was gay, he respects me the same" claims one respondent. However, these stories present a skewed view on the situation of LGBT persons since they mostly concern a close group of confidantes and/or family members likely to be more open and tolerant. "Everyone reacted well because I told the right people at the right time," admits one respondent, and another adds "I knew them well and was aware that they would be open towards LGBT persons." A predominant part of the respondents are "out" to their friends (33%), by comparison only 16% have come out to their parents and 20% to siblings. However, these positive attitudes cannot be taken as a reference point for the LGBT persons' social acceptance.

The reasons are more likely to be related to the fact that the members choose people they expect to be supportive. Within their immediate environment, they were mainly (60%) encouraged to live their lives and that the close family members or friends will provide the support necessary to face the challenges of being LGBT in Kosovo today. Nevertheless, this is not the rule, as about 15% of the respondents report to have been ostracized by their family or friends. Openness regarding sexual orientation has cost

them friendships and has been followed with verbal and physical attacks from family members. One respondent says, “In the family the reaction was negative, they shouted and even physically assaulted me, however now things have calmed down and we just don't talk about it.” Coping mechanisms differ –there are cases that after a certain period there is some type of coming to terms with the situation in silence, but in other cases family bonds are broken. “My brother and sister reacted poorly... they told me this was not normal, it was an illness, that I needed to change, but over time realized that I could not so the [situation became] calmer;” but other respondents have been less fortunate. “To everyone I told that I was gay reacted badly. My family did not accept me and kicked me out of the family home. Others told me I was sick, but after a while they accepted me, not because they think it is a good thing but because they respect me” shares one respondent.

In the course of the research with the LGBT community many stories of both hardship and courage emerged, all of whom cannot be given the attention they deserve within this report.



**Figure 4** Most respondents are met by positive reactions in the "coming-out" process

Opening up to family members continues to be a serious challenge in the quest for freely expressing ones identity in Kosovo for a member of a sexual minority –around 52 percent of the respondents are afraid to speak to their families about their sexual orientation. Being gay is not associated only with physical threat in society but very frequently with lack of understanding and facing abuse in the family too. Of the overall respondents, 13% reported to have faced name-calling and risked being ostracized by their families. One gay person elaborates, “In 2007 I was kicked out of the family home after I told my family I was gay. I could not lie any longer. I knew it would be difficult, but I thought they would accept me since I was an only son... my father started offending me and... after three days I was kicked out of the family home, since according to them I had brought shame to the

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family. For three years I stayed in different houses and towns. I tried going home several times, but was rejected. Finally, they called me to return home but we never speak about this topic.” As families remain closely knit and young people continue to face socio-economic obstacles in finding employment, they remain dependent on their families support. Traditional cultural values are sometimes linked to religion as well, amplifying the fear of non-acceptance further. Throughout the interviews the word fear dominates –fear of losing family, fear of non-acceptance, and fear of not having where to turn.

## Fear and Violence

Despite the predominant positive reactions in the process of coming out, 50% of the respondents feel fear in being a member of the LGBT community in Kosovo and exactly 50% claim to be not afraid. The respondents are split between being fearful and not, but when pressed for more detail the responses show that even in the cases when the respondents do not feel fearful it stems from personal courage, rather than legal protection or general security. “I mind my own business, and do not let anyone know what I am or what I do –therefore I do not feel fearful about my sexual orientation,” says one gay person.

Within the respondents that are not afraid half claim that this is since they are not breaking any laws and are not harming other people in any way, whereas the other half simply do not disclose information about their sexual orientation. Therefore, even in the cases when they claim not to be afraid, fear is manifested indirectly since they are not open about their sexual orientation. Mixed within fear and intimidation, are messages of human courage whereby members stand proudly in defense of their identity despite having been physically assaulted. “Despite what I have gone through, I am not afraid because I feel good about what I am,” reads one questionnaire.

“The violence against the LGBT in community and that the state offers no protection,” says one respondent on the source of his/her fear. In fact, this statement is echoed many times. When pressed for detailed explanations, widespread homophobia (46%) and cases of violence against members of the community (34%) are identified as the two main sources of fear; in addition 10 percent of the respondents fear the rise of radical groups and 10 percent list lack of security as the main reason for being fearful. In a few cases, the fear is based on previous experience and or paranoia that the family will disown them.

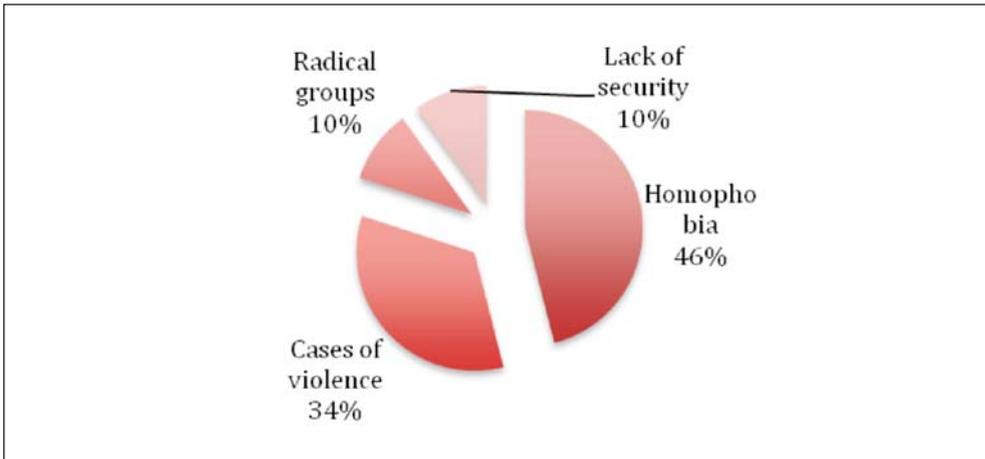


Figure 5 Sources of fear among respondents

The research shows that the principal form of violence directed towards this community has been in the form of verbal abuse (40%) on the street based on appearance –most frequently being called “peder” and “bulash”, derogatory terms for a male gay person, “whore” and “mentally ill”. However about 10% of the respondents said they had been exposed to physical abuse, including being raped, beaten, stabbed or spat at in the street. “There was a case when a person thought I was looking at him and he came over, slapped me and told me “don’t look at me fag (peder)”, writes one respondent.

In a number of cases LGBT persons are deceived that the people they are talking to are also LGBT and are then assaulted, raped and robbed. “I was with a friend in a gay friendly place and four people presented themselves to be gay. When we were by ourselves, they asked for our money and phones. Since we did not have them, they took out their knives. I got stabbed in the leg and my friend in the head. We never went to the police, and we treated ourselves.” Another testimonial reads of serious sex offence combined with being shunned by family, “In the beginning of 2013 I had met a person who presented himself to be gay and we agreed to meet. At our rendezvous there were 4 people who told me they were not gay, but that they set up similar traps for gay people. They took my phone, wallet, jacket, pants –I was left in my underwear. Three of them left and one forced me to have sex, even though I did not want to. I reported the case to the police and went home, where I had to tell my family I was gay. My father was angry –he shouted and slapped me. After two weeks, the situation calmed down.”

Faced with abuse and sometimes living with fear, members of the LGBT community also feel that their issues are widely disregarded by the media (65%), and as such their public space is severely constricted. By contrast, only about 33 percent of human rights officials perceive that the treatment of LGBT issues by the media is weak.



Figure 6 Assessment of media treatment of LGBT issues by the LGBT Community

## Awareness and Protection

Even though the legal framework of Kosovo offers wide protections for LGBT persons, our research shows that the community is not sufficiently informed about the legal protections available and the modes of this protection. Most respondents (48.9%) said they were not aware if the laws in Kosovo offered protection to sexual minorities. About 40% of the respondents were aware of the Anti-Discrimination Law and one respondent thought that there is a special law securing legal protection for sexual minorities.

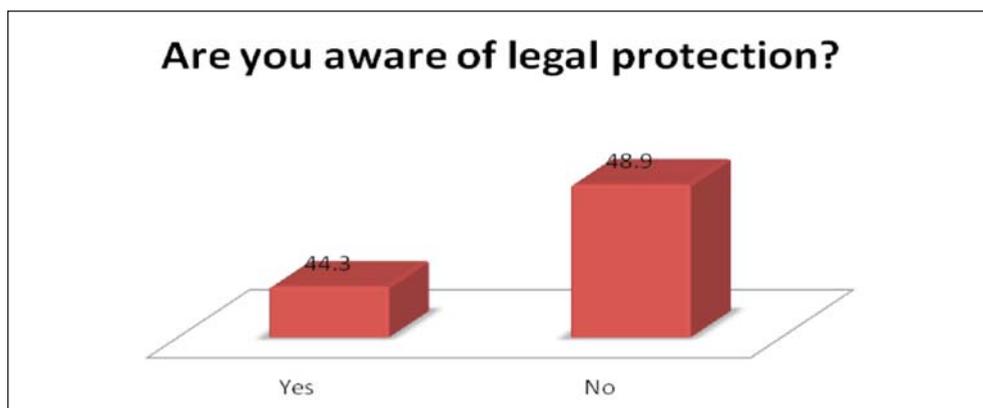


Figure 8 General awareness about legal protection in the LGBT Community

When it comes to awareness on channels where assistance and protection can be sought, members of the community are best informed about the support available from the civil society organizations (82%), followed by the police (76%). Information on available protection and support mainly spreads by word of mouth (53%), so from one member of the community to another, or originates from non-governmental organizations. Respondents feel most at ease to turn to non-governmental organizations (90%) and police (61%) to seek protection as members of a sexual minority.

The feeling of being marginalized and at risk runs throughout the community, which explains the high trust in non-governmental organizations. One explanation why interviewed LGBT persons are more likely to turn to the police than other institutions can be due to the gravity of the assaults they face. Additionally, the high figure is more likely to correspond to the overall conviction that if there is an assault one should contact the police rather than basing this to specific protection provided by the police to the LGBT community. These findings suggest that there should be continued support to the civil society sector, as an important pillar for both awareness raising and psycho-social support. However, it is concerning that LGBT persons who are not a part of the network are at risk of being left in informational darkness regarding existing services and possible sources of assistance.

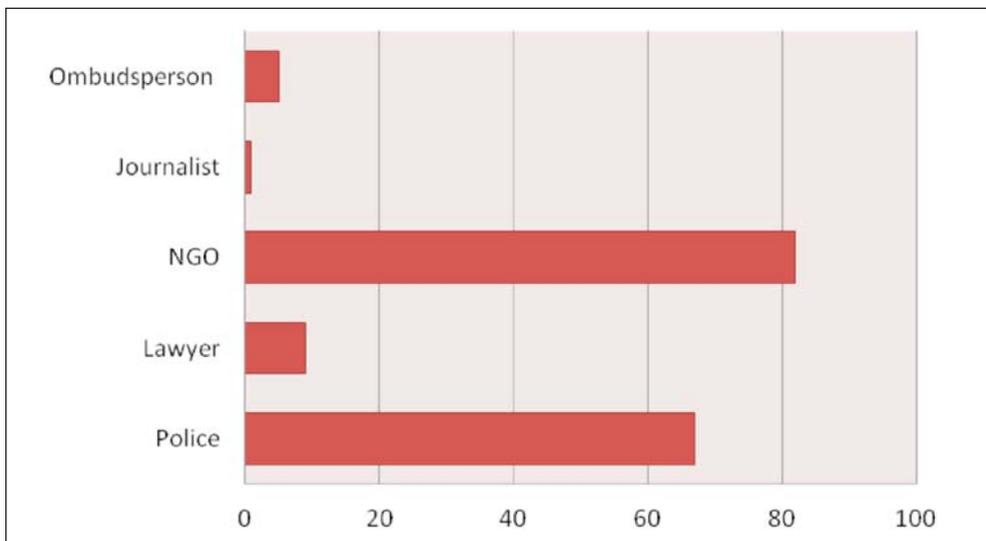


Figure 9 Institutions/organization where LGBT persons turn for protection and support

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## Public Sphere

In the public space members of the LGBT community in Kosovo, contend they are protected from abuse only if they are not open about their sexuality or do not display traits which can be associated with what is perceived as homosexual traits –some of which include masculine/feminine behavior or style. However, even when these cases occur, the abused parties very rarely report their experience to the competent organs. This research shows that only 5 reports have been handed in to the police and in two cases they were followed with inappropriate remarks by the police officers. Additionally, two of these reports concern the case of the attack against Libertas in December 2012 and no information is provided regarding the follow-up in these cases. One respondent says that once in the police station, the police officer asked him/her when was the last time she/he had sexual intercourse, which was beyond the purpose of the investigation.

In the education system, the most ubiquitous reported form of abuse is verbal abuse by other students (4 instances), in one instance a student was denied access to education and in another the student was subject to hate speech by the teacher. One of the respondents reports to have been assaulted and spat on, but two others describe how their sexual orientation has cost them friendships and being shunned –“after I told my friends that I was a lesbian, they told me I was ill and not normal.” In the health system, two respondents describe to have felt discriminated and received sub-standard treatment. One of the stories is evermore concerning: in the hospital after complaining about stomach ache, one respondent was told that he “[was] maybe pregnant since [he] probably liked men.”

In the workplace, the situation is no better: there are instances when LGBT persons are denied promotions, are subject to bullying, face difficulty in finding employment or have been fired based on their sexual orientation. “I had difficulty finding a job –I was told “we do not have work for faggots.” When I found a job, my colleagues would offend me and they would complain to our superiors that I was sexually harassing them. The boss fired me, with the excuse that there must be something to it since I was gay and others were talking about it,” elaborates one of the respondents. But, such blatant abuses and violations of the Anti-Discrimination Law are generally hushed, thus maintaining existing social order and dominance of social norms over legal ones.

## VI. Law Enforcement

The strength of the state extends as far as its ability to protect its weakest societal members. This research, explored the attitudes and perceptions of judges, prosecutors, policemen and policewomen, lawyers and human rights officials. The general conclusion to be drawn is that the opinion and attitudes on the issue of LGBT rights are divided and that there is an overall lack of information, training and awareness on issues pertaining this community. Public officials and servicemen/servicewomen have not received any training on this issue, which can be one of the causes for their lack of information and an impediment in dealing rightfully with cases coming from the LGBT community. In addition, there is a significant discrepancy between the number of violations that members of the LGBT community seem to suffer from and the ones that have been reported, leading to having only few cases ending up in the hands of the judiciary. This discrepancy can be attributed to lack of general trust in public institutions and in particular as a result of several widely reported cases where state institutions failed to fulfill their duty<sup>35</sup>. The rest of this chapter explores the attitudes of the different professions.

### Judges and Prosecutors

In total 25 semi-structured interviews have been held with judges and prosecutors, of which seventeen with judges and eight with prosecutors. Among the judges, 2 deal exclusively with civil cases, 5 with civil and penal cases, 2 with civil, penal and administrative cases and 4 solely with penal ones. Among judges, 77% are over 50 years old and one is between the ages of 35 and 49. The sample of prosecutors consists of 1 deputy chief prosecutor, 6 prosecutors and 1 deputy prosecutor. Of the prosecutor's sample, 1 is between the ages of 27 and 35, 3 are between the ages of 36 and 49, and 4 are over 50. With regard religion, most of the judges and prosecutors identify as Muslim, 76 and 87.5 percent respectively. Even though it is difficult to draw general conclusions considering the small size of the sample, some trends emerge. Most judges (52.9%) agree that there is some kind of violence against the LGBT community in Kosovo, with 23.5 percent claiming that it never occurs; this figure is significantly lower among prosecutors where only 33 percent agree that there is violence. There is an overall positive trend in easiness of accepting cases related to LGBT issues by judges, whereas **all prosecutors have denied answering that question** (see figure 10). Even though judges appear open to dealing with cases concerning LGBT persons, three judges disagree or strongly disagree that it is important to treat cases regarding LGBT persons; the same number believe that nothing needs to be done for better protection of the rights of sexual minorities in Kosovo. In the latter question, all prosecutors have declined to answer. Moreover, four prosecutors deny that there are LGBT persons where they live and one believes that the rights of LGBT persons should not be protected.

<sup>35</sup> Constable, Pamela. "Persecuted Gays Seek Refuge in the US." The Washington Post.

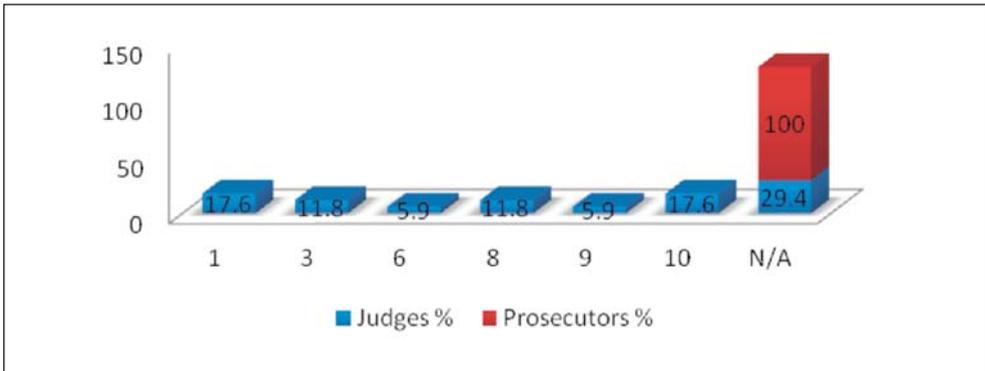


Figure 10 How at ease are you with dealing with an incident concerning LGBT (1 -not at all, 10-completely at ease)

Among judges, 3 report that they have received cases on discrimination or violence against LGBT persons on issues of denial of residence, rape and domestic violence. It is striking that regardless of the seriousness of these alleged crimes, not all of these cases have been addressed –one judge reports to not have addressed any case and 2 have not addressed all the cases. One judge contends that the reason why not all cases were addressed is that there is no such thing as cases against LGBT persons. However, considering that only a fraction of the incidents are reported and they seem to be followed through partially, the set-up stimulates further disenfranchisement and continuation of low trust of the community towards public institutions. Despite a general limited exposure to the LGBT community, both groups of professionals show a tendency for openness towards this community. Such attitudes become most evident on the question of how would they deal with a gay colleague: 50% of the prosecutors and 47% of the judges leaning towards being at ease.

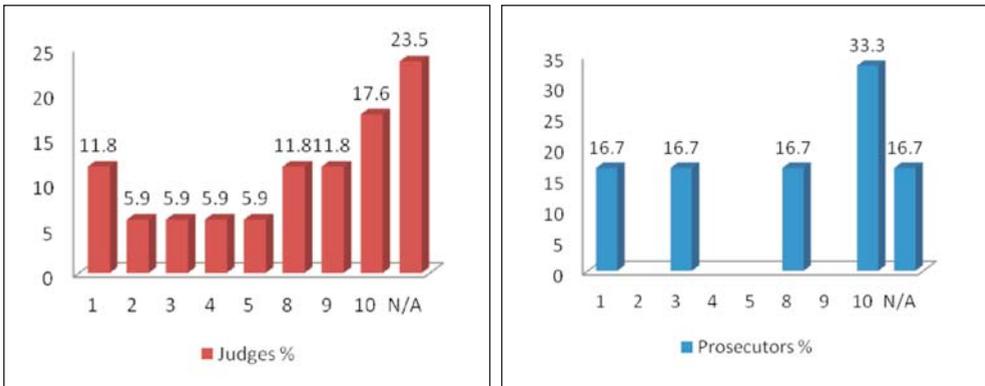


Figure 11&10 Having an LGBT colleague (1-not at all at ease, 10-completely at ease): Judges and Prosecutors

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These attitudes are echoed in the questions regarding the rights that members of the LGBT community should have, whereby most judges and prosecutors agree that they should have the same rights and protections as everyone else and that all reports coming from the LGBT community should be considered.

To conclude, the evidence presented above suggests that despite a general lack of training on LGBT issues, judicial professionals are aware of the entitlement for same rights to all members of the society and have an understanding that LGBT rights are human rights. The general tendency in attitudes towards dealing with a case is positive –the cases have to be dealt with. However, in practice, for reasons which are beyond the scope of this report not all incidents that are reported are followed up and perpetrators brought to justice. Even if these represent isolated instances, they further contribute to the disintegration of the relationship between state and citizen.

### **Serving and Protecting: The Police**

In an effort to include all levels of the police force, this research focused by conducting semi structured interviews with a captain, lieutenant, majors, sergeants and a higher number of officers: a total of 30 questionnaires were distributed. All policemen in the sample were Muslim Kosovo Albanians, of which about 55% sometimes practice religion. In comparison to judges and prosecutors, the police are more aware about violence against the LGBT community, 60% agreed that abuse occurs or occasionally occurs. The most cited types of reports are verbal abuse in public spaces or expressed threats, which have predominantly been dealt with by the police (90%). At the same time, the police show higher tolerance in accepting an LGBT colleague, whereby over 66% of the interviewed policemen/women point 5 or higher (on a 10 point scale-10 being with complete ease) indicating the easiness with which they would accept him/her. Similar attitudes are echoed in terms of rights and protections that should be provided to the LGBT community, and how to deal with incident reports from the LGBT community: 70% agreeing that the same rights should be guaranteed for all citizens and 77% agree that all incident reports should be addressed. Yet, almost half (46%) of the interviewed police officers believe that these rights are being imposed by the international community and about 10% think that there is no need to take any measures to secure better rights for this community.

Unlike other institutions, some policemen/women report to have received training on LGBT rights from the department they work in, local government and civil society organizations. While members of the LGBT community fear for their security and refrain from reporting incidents, the input from interviews gives limited indication as to why such perception prevails, but shows there is space for improvement in terms of knowledge and awareness among police officers. Some of the reservation can be a result of stories of mishandling incident reports by the police, which resound heavily in the LGBT community in Kosovo<sup>36</sup>.

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<sup>36</sup> Constable, Pamela. "Persecuted Gays Seek Refuge in the US". The Washington Post. July 10, 2007

## Government Institutions

One of the roles of government is to secure an equal and fair society; this entails respect for human rights, tolerance, freedom and fairness. The government's role is to improve equality and reduce discrimination for all, at work, in public and political life, which is the reason why 59 (in words: fifty nine) questionnaires were distributed to human rights officials at different levels of government- across ministries (20), municipalities (32), Office for Good Governance (1) and the institution of the Ombudsperson (6). Similar to the judiciary and the police, human rights officials have had limited exposure to LGBT issues, have had to handle a very small number of incidents and only a few have received training. During the interviews, some officials made it clear that they were filling in the questionnaire as it was expected, but that their personal opinions differed, expressing directly discriminating opinions about the LGBT persons verbally. They are open to accepting LGBT colleagues, but in general perceive that this issue is being pushed onto Kosovo by the international community.

On the general questions regarding discrimination against members of the LGBT community, officials seem to be aware that there are occurrences (49%). The most frequent answer, however, is the one that alludes to complete denial of this group -that there are no LGBT persons in their community or vicinity. In the researched institutions, there have only been 2 reported cases, of which one has been met with a partial institutional response.

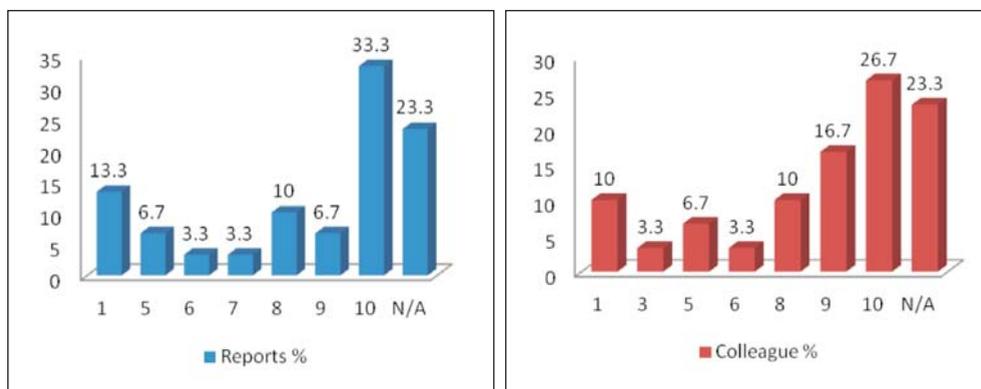


Figure 12 Acceptance of LGBT rights and colleague (1-not at all, 10-complete easiness)a

It is evident that there is broken communication between members of the LGBT community and human rights officials. The few officials that report engaging with the LGBT community and explaining the role of their department they do so via private meetings, public forums, brochures and flyers. Three officials report that their unit has advocated at the central or local level to amend legislation in order to address LGBT rights. At the same time, one official believes that nothing needs to be done in order to strengthen LGBT rights and another believes that "having in mind the problems that this society has, the LGBT issues are not worth addressing at all."

In comparison to other represented stakeholders, human rights officials report to know more members of the LGBT community, but this can be as a result of the high number of interviews that took place in Prishtina and with institutions that directly work with these communities (such as the Ombudsperson).

Whilst the overall data among human rights officials shows positive aspects, there are views which reveal the necessity for further advocacy to be conducted on LGBT issues. To illustrate, when asked to assess the media coverage provided to LGBT issues, about half of the interviewed officials perceive it to be between excellent and sufficient, outlining a stark discrepancy in the perception of the community itself and the officials. Moreover, one respondent believes that there is no LGBT community in Kosovo. Even if this view in itself may not be statistically significant, it is important to keep in mind that it is being held by an official dealing with human rights.

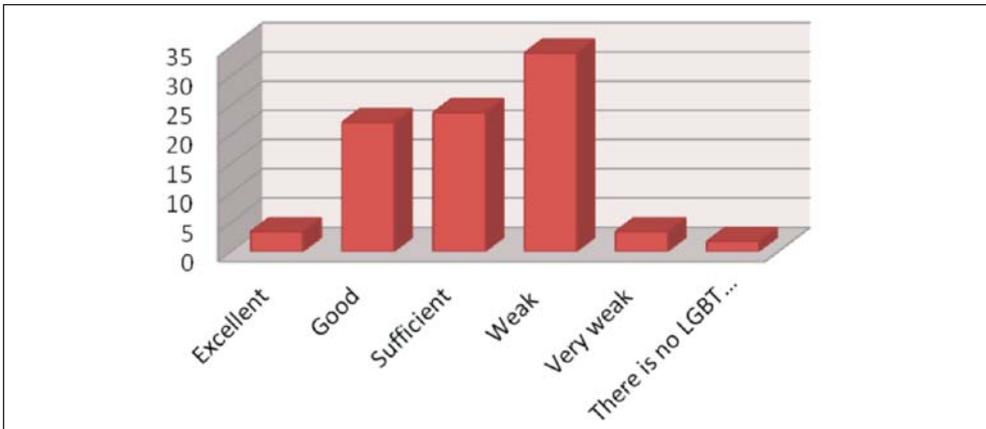


Figure 7 Assessment of the media treatment of LGBT issues by human rights officials

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## VII. Seeking Medical Assistance

The respondents among the medical profession were drawn carefully from the medical branches that are likely to be most relevant for the health and well-being of members of the LGBT community. To that end, questionnaires were distributed to practitioners in family medicine (42%), infect-ology (8%), urology (10%), ob-gyn (14.6%), psychology (2.2%), psychiatry (9%), dermatology (7.9%) and dentistry (1%). A predominant number of medical professional (90%) believe that LGBT persons should be given equal treatment. However, even if the figures appear optimistic, researchers faced great difficulty in getting medical professionals to fill in the questionnaires. The challenge in finding medical professionals willing to answer the questions is possibly related to the role and responsibility (or lack thereof) medical professionals see in providing equal treatment to all patients, regardless of their sexual orientation.

A total of 89 questionnaires were distributed to medical professionals in an attempt to assess their basic understanding and attitudes towards members of the LGBT community. The majority of the respondents (60.7%) were between the ages of 36-49, with 11.2% being between 27 to 35 years old and 28% over 50 years old. In this sample 86.5% are doctors, 9% are nurses and a total of 4% are therapists, medical assistants and others. The predominant number of interviewed professionals (63%) work at a public hospital, with an additional 36% working in public clinics, whereas only 1.% of the professionals interviewed during the course of this research worked at a private hospital. Also, only 1% of the respondents belong to then non-majority community, the rest being Kosovo Albanian.

When discussing violence and discrimination, half of the medical respondents agree that it happens sometimes or in some cases, only 7.3% concur that it happens all the time, whereas 11% believe it never occurs. 30% of the respondents answered this question by saying that in their vicinity there are no LGBT persons.

More than in other professions interviewed for the scope of this report, 21.4% of the medical interviews claim to have had a patient who has self-identified him/herself as lesbian, gay, bisexual or transgender. When asked whether they have had patients whom they perceived to be lesbian, gay, bisexual or transgender -37% of the respondents answered positively. Of 26 more detailed answers from the ones who responded positively, 16 claims to have determined that the person was lesbian, gay, bisexual or transgender based on behavior or looks. Three respondents said that they had been told so by their patients, and one based on a psychological examination. One respondent claims to be able to determine sexuality based on hormone testing and another respondent determined sexuality of their patients based on their civil status –“(s)he meets all the conditions to be married, but is not.”

All but one medical professional interviewed for this research has claimed that they have not refused treatment to a person based on the belief that they were a member of the LGBT community.

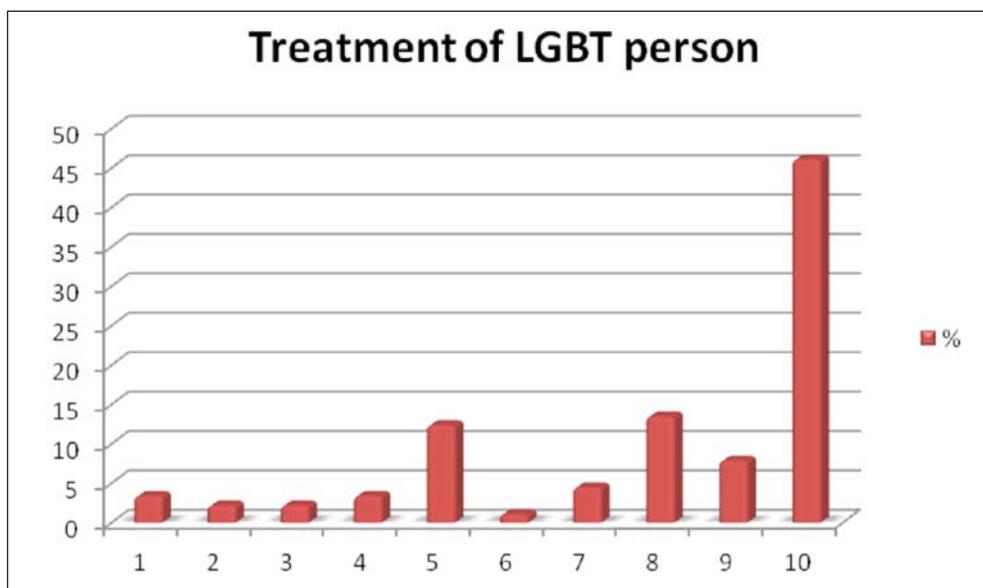


Figure 10 Easiness with which a patient belonging to the LGBT community is treated (1-not at all, 10-complete easiness)

The number of complaints for psychological and physical harm of the members of the LGBT community to the police corresponds more or less with the number of treatments given by the sample medical respondent –totaling 7. Of the seven patients received, two are reported to have come with physical injuries and signs of rape, two reported complaints related to hate speech, two reported being teased, and one addressed medical professionals seeking assistance after s/he was kicked out of family home.

The American Psychiatric Association removed homosexuality from its official Diagnostic and Statistical Manual of Mental Disorders in 1973 after consultations with experts and review of scientific literature<sup>37</sup>.

The American Psychological Association in January 1975 adopted a resolution stating that homosexuality per se did not imply impairment in judgment, stability, reliability, or general social and vocational capabilities and it urged all mental health professionals to take the lead in removing the stigma of mental illness which has been associated with homosexual orientations<sup>38</sup>.

<sup>37</sup> Association of Gay and Lesbian Psychiatrists. [http://www.aglp.org/gap/1\\_history/](http://www.aglp.org/gap/1_history/)

<sup>38</sup> Shoqata Amerikane e Psikologjisë. <http://www.apa.org/about/policy/discrimination.pdf>

In our sample, on the question whether they find homosexuality to be an illness or a disorder, about 94% of the respondents refused to answer and only 6% answered negatively. In combination with the two following questions investigating the source of these beliefs and the treatment prescribed to LGBT persons, whereby one respondent said that this belief was based on scientific literature and two respondents said they would recommend psychological or psychiatric treatment, and the rest refused to answer. Moreover, one of the interviewed LGBT persons reports to have gone to see a psychiatrist due to sleep problems and upon having revealed that she was a lesbian, the psychiatrist argued that was the source of her problems. These testimonials are worrisome at the very least, even if they are isolated cases.

### **Attitudes towards HIV and LGBT community**

Globally, gay or bisexual men are disproportionately affected by the HIV epidemic. In European capitals, young gay men have a lifetime risk of becoming HIV-positive that matches that of young men in Southern Africa, the area in the world most affected by HIV<sup>39</sup>. By comparison, in the US more than 60% of new infections and half of all Americans living with HIV belong to this group<sup>40</sup>. Comparable data is not available for Kosovo, due to the lack of reporting, reliable information and overall fear prevalent within the LGBT community<sup>41</sup>. Data from the National Public Health Institute, between 1986, when the first case was registered, until 2012, shows that there have been 87 reported cases of HIV and AIDS, of whom 47 are with AIDS and 40 with HIV infection. Gender and demographic wide, of the infected persons 69% have been male, and 37% belong to the age group 25-34<sup>42</sup>. Until 2012, 39 deaths from the infection have been registered.

Kosovan medical professionals when pressed regarding both HIV and sexual orientation, display a set of beliefs that are prejudicial towards this community. Among the respondents, 70% answer positively on whether LGBT members should be obliged to test for HIV and 79% regarding other STD-s. Moreover, 23% of medical professionals claim to have requested a person that self-identified or they suspected to be lesbian, gay, bisexual or transgender to undergo HIV testing. Predominant number of professionals (80%) show preparedness to provide treatment to a member of the LGBT community even if the latter has not undergone HIV testing, though a significant number -20% refuse to answer or would deny treatment (14.6%). Having a predominant number of medical professionals require HIV testing from an LGBT person, regardless of symptoms, demonstrates how prevalent prejudice is and constitutes an invasion of privacy.

<sup>39</sup> UNAIDS. Right to Health, Right to Life: HIV and human rights in Europe. May 29, 2013. URL: <http://www.unaids.org/en/resources/presscentre/featurestories/2013/may/20130529euhiv/>

<sup>40</sup> Mermin, Jonathan. "HIV Impact on Gay and Bisexual Men: The 4th Decade." September 27, 2013. URL: <http://blog.aids.gov/2013/09/hiv-impact-on-gay-and-bisexual-men-the-4th-decade.html>

<sup>41</sup> "Knowledge, Attitudes, Practices and Behavior Study on HIV/AIDS with Young People in Kosovo." United Nations Kosovo Team. 2008 URL: [http://www.unicef.org/kosovo/KAPB\\_HIV\\_AIDS\\_Eng\\_Final.pdf](http://www.unicef.org/kosovo/KAPB_HIV_AIDS_Eng_Final.pdf)

<sup>42</sup> Ibid.

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Despite overall encouraging results regarding preparedness to provide treatment to LGBT patients who have not undergone testing, the fact that one in seven medical professionals would refuse treatment of a patient poses health risks for LGBT community. In the medical profession, as in others subject to this research, basic services are at the risk of being withheld to members of the society subject to stereotype and prejudice.

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## VIII. Conclusion

In Kosovo's path of Europeanization and democratic consolidation, protection of rights of sexual minorities is becoming increasingly important. The conditionality of the EU in the field of human rights has been more stringently applied to Croatia, followed by concrete action plans, than it has to the acceding countries in 2004 and 2007 enlargement. These principles and conditions are being carefully monitored for Kosovo and other countries in the region aspiring EU membership. In practice, the living and working conditions for the LGBT community will have to improve, in line with adopting and enforcing appropriate legislation.

The LGBT community in Kosovo and the few functioning organizations are the backbone of psycho-social support for LGBT persons, while traditional social norms continue to play a key role in shaping the lives of LGBT persons. In fact, 45 percent of the interviewees are afraid of opening up to members of their families regarding their sexual orientation. "Maybe my parents even know, but we do not talk about it," says one respondent, "they frequently let me know that if I was gay I would lose their support." Similar testimonials are frequent –another respondent says that this is the result of "[his/her family's] ignorance to accept someone who is LGBT. Many factors are involved here, especially education, culture, tradition and the fact that my family would be ignored by the surroundings." The reach of traditional values extends to encompass public services and leads to a disintegration of the bond between citizens and the state, as LGBT persons shy away from reporting abuse and perpetrators are not brought to justice. Furthermore, discrimination in public services can lead to discrepancies in education and health outcomes, resulting in further marginalization of this group.

In the area of law enforcement, the police officers and human rights officials have had most exposure to LGBT community issues, whereas judges and prosecutors less so. There seems to be a general agreement, with slight variation, that cases from the LGBT community should be dealt with and a tendency toward acceptance of potential LGBT colleagues. Law enforcers have had limited access to trainings in this area and most agree that it would be useful in their work. However, opinion is split on whether rights for the LGBT community are pushed onto Kosovo by the international community: 30 percent of judges and 43 percent of policemen believe it is. Even though the tendency is positive, the need for further training to raise awareness and understanding is necessary.

When turning to medical professionals, LGBT members can expect to receive equal treatment, with some exceptions. Medical professionals demonstrated the highest levels of tolerance in both dealing with LGBT patients and accepting an LGBT colleague. However, there are in total three instances where medical professionals admitted to have denied treatment or referred to another doctor, patients whom they believed to be LGBT persons. Even if this number is low, such professional conduct is in breach of the laws of the Republic of Kosovo which guarantee equal provision of human rights for all citizens of

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Kosovo. Existence and extent of stereotypes becomes even more evident when 15% of medical professionals claim to refuse treatment to an LGBT member if she/he has not undergone HIV testing, and 95 percent refuse to answer the question if they think that being homosexual constitutes a mental illness. These figures show that similarly to other interviewed professions, medical professionals are to some degree aware of the “right” way to answer the questions –“right” meaning the one that is expected by research organizations –but once the probing becomes more in-depth, the answers give insights into true convictions which are marred by prejudice. In practice, this can reflect in the manner which cases and patients from the LGBT community are treated.

To sum up, LGBT members are exposed to above average levels of discrimination in the public sphere and duty bearers are unable to enforce the rights envisioned in the legal framework. Even when legal remedies are available, lack of training among law enforcement bodies combined with the low trust in law-enforcement agencies by LGBT persons, make these remedies ineffective. Delivery of public services is not fully impartial and non-discriminatory, leaving significant space for improvement. By comparing and contrasting the data from the different stakeholders, it becomes evident that the reason behind limited reporting of abuse by LGBT members stems more from perceptions than experience itself. Space for improvement exists in both empowering LGBT persons to know their rights, and supporting public institutions and the civil society sector in strengthening the dialogue with the LGBT community.

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## IX. Recommendations

Building on the research findings of this report, the following key recommendations should be considered to ensure the respect for human rights and non-discrimination for the LGBT community.

### Public Institutions

1. Open support by politicians, both in government and opposition, and respected members of society for the promotion of LGBT rights. An ongoing dialogue between political parties, academia, media and civil society activists is necessary to shape public opinion.
2. Development of a National Action Plan to promote the respect for LGBT persons and integration of LGBT issues in broader advocacy campaigns for human rights. These efforts need to be synergized between the Ombudsperson, Government and civil society organizations.
3. Trainings for judges, prosecutors and police officers on LGBT issues and rights, enabling them to be aware of gender identity or sexual orientation motives in reported crimes. Moreover, special training needs to be given on victim support to police officers.
4. Medical trainings, curricula and health policies should be updated and take into consideration the needs of LGBT persons. Special attention needs to be paid to addressing prevalence of stereotype in medical training, possibly coming from outdated textbooks.
5. Awareness raising activities which will inform LGBT persons on where and how they can access structures and learn procedures to report discrimination, hate-crimes and hate-speech.

### Civil Society

6. Creating a network of human rights organizations advocating for LGBT rights and providing support and counsel to LGBT persons throughout Kosovo. To achieve the desired effect, awareness raising campaigns need to be consistent and spread throughout Kosovo, which requires a broader network of organizations. A larger network will provide easier access to LGBT persons seeking assistance.
7. Prudent follow-up of anti-discrimination cases based on sexual orientation that were reported and/or are being prosecuted. Civil society can inform the public by providing statistical data of the number of cases reported to public authorities, the types of offences and the sentences which were delivered.
8. Enlisting the support of academia, media, culture and public figures from different spheres of public life for active promotion and continued debate on LGBT rights and freedoms.

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**Donor/International Community:**

9. Prioritization of the LGBT issue, by increasing support publicly and the political pressure on public institutions for a coherent approach in addressing reports coming from LGBT persons or regarding LGBT issues.
10. Continuous and sustained assistance to organizations working directly on LGBT issues, as well as support of civil society organizations working with human rights and media to sensitize the public opinion.



