



Gej Strejt Alijansa Gay Straight Alliance

FREEDOM IS NOT GIVEN FREEDOM IS TAKEN

REPORT ON HUMAN RIGHTS STATUS
OF LGBT PERSONS IN SERBIA 2011

Održan protest Gej strejt alijanse „Dosta je“ u centru Beograda

Obračunati se s nasilnicima

Beograd - Stotinak građana,

Kad se mi se vratili slika
njegovog bahatog ponašanja,
kako me je štitao kao da
sam ja neko dakle, kako mi
se aneo a lice, koja mignja
je iskalio na meni, shvatio
sam da želim da bude
kašnjen.

M. P. (26)

KRAJ DRAME S GEJ PARADOM

MUP zabranio i Porodičnu šetnju
Dveri, i skupove Obraza i SNP 1389

BLAGA KAZNA ZA OBRAZOVCE

Savet za nacionalnu bezbednost nije odobrio okupljanja u Beogradu tokom vikenda

Policija zabranila Paradu

Sprečena i takozvana porodična šetnja „Dveri“ planirana za subotu • Organizatori ne odustaju od Prajda • Moguće tužbe Ustavnom sudu i Evropskom sudu za ljudska prava

Ta želim da živim i želim
da se moj život nastavi dalje.
Ja ne želim da idem nigde,
ovo je moj grad koji volim i ne
dam takvim manijacima da
me sblone iz njega. I ne želim
da oni budu slika Srbije i
naše budućnosti!

A.Ž. (24)

НОЖ ЗБОГ ЛГБТ МАЈИЦЕ

ИЗБОДЕНА ДЕВОЈКА

ДЕВОЈКА koja je nosila
majicu sa otkazom ЛГБТ по-
путнице тешко je повређена
kako ju je напао малолетник
sa nožem у Улици ширше
Милана у центру Београда,
rekli су у Министарству
унутрашњих послова Србије.
Како су навели, напад у којем
je повређена А. Ж. догађао се
у уторак око 4.30 у центру
града. Министар унутраш-
њих послова Ивица Дачић
изјавио je да је девојка

REPORT PRODUCED BY:

Gay Straight Alliance, May 2012

COVER ILLUSTRATION:

Collage: Dragan Lončar

(Clips from the daily media and parts of attack victims' statements)

TRANSLATION:

Vesna Gajišin

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THANKS!

Members of Gay Straight Alliance

Lawyers of Gay Straight Alliance, Aleksandar Olenik and Veroljub Đukić

Victims of violence and discrimination

who had the courage to speak out and report their cases

Partners from the NGO sector:

Belgrade Centre for Human Rights, Belgrade Fund for Political Excellence, E8 Centre, Centre for Modern Skills, Centre for Euro-Atlantic Studies, Centre for Cultural Decontamination, Centre for New Politics, Centre for Youth Work, Centre for Empowerment of Young People Living with HIV / AIDS "AS", Centre for Gender Alternatives – AlteR, Dokukino, European Movement in Serbia, Centre for Free Elections and Democracy - CeSID, Policy Center, Fractal, Civic Initiatives, Centre "Living Upright", Dr. Zoran Đinđić Fund, Helsinki Committee for Human Rights, Initiative for Inclusion "BigSmall", Institute for Sustainable Communities - ISC, JAZAS Youth, Youth NGO, Association for Fight Against AIDS - JAZAS, Regional Centre for Minorities, Lawyers Committee for Human Rights - YUCOM, Union of European Federalists, KRIO – Collective for Development and Sustainability, Women in Action, Domestic Violence Counseling Centre, Citizens Association for Diversity Promotion "Fata", Association of Students with Disabilities, Urban-In, and many others...

LGBT organisations in Serbia:

Centre for Queer Studies, Gayten LGBT, Gay Lesbian Info Centre - GLIC, Labris – Organisation for Lesbian Rights, Novi Sad Lesbian Organisation - NLO, Safe Pulse of Youth – SPY and others

International partners:

Amnesty International, CARE International, the European Commission, Centre for Civic Education, Front Line Defenders, LGBT Forum Progres, European Parliament Intergroup on LGBT Rights, Heinrich Böll Stiftung, Human Rights Watch, IGLHRC, ILGA Europe, Iskorak, Lesbian Group Kontra, Justice in the Balkans: Equality for Sexual Minorities, the Council of Europe, the Office of the High Commissioner for Human Rights of the United Nations, Development Department of the United Nations, Rainbow Rose, the Organisation for Security and Cooperation in Europe – OSCE, Transgender Europe, and many other national LGBT organisations in Europe
Special thanks to the Government of Montenegro for establishing cooperation and exchange of practices in the field of protecting and respecting LGBT rights

THANKS!

Embassies:

Austria, France, Canada, the Kingdom of Belgium, the Kingdom of Denmark, the Kingdom of the Netherlands, the Kingdom of Norway, the Kingdom of Spain, the Kingdom of Sweden, Hungary, the Federal Republic of Germany, the United States of America, Slovenia, Switzerland, the United Kingdom of Great Britain and Northern Ireland

State institutions:

City of Belgrade's Agency for European Integrations and Cooperation with Civil Society, Mayor of Belgrade, Serbian European Integration Office, Ministry of Culture, Ministry of Justice, Ministry of Labour and Social Policy, Ministry of Interior, Ministry for Human and Minority Rights, National Assembly of the Republic of Serbia, Public Administration and Local Self-Government, Ministry of Health, Commissioner for Protection of Equality, the Republic Prosecutor's Office, Commissioner for Information of Public Importance and Personal Data Protection, President of the National Assembly of the Republic of Serbia, President of the Republic of Serbia, Assembly of the City of Belgrade, Assembly of the Autonomous Province of Vojvodina, Ombudsman

Political parties:

Democratic Party, G17 plus, Liberal Democratic Party, League of Social-democrats of Vojvodina, Alliance of Vojvodina Hungarians, Social Democratic Party of Serbia, Social Democratic Union, Socialist Party of Serbia, Serbian Progressive Party, Serbian Renewal Movement

Members of GSA Advisory Board:

Sandra Čaušević, Boris Dittrich, Miloš Đajić, Slavica Đukić Dejanović, Linda Freiman, Željko Ivanji, Aleksandra Jerkov, Sanja Juras, Elvira Kovač, Miloš Kovačević, Sonja Licht, Dušan Maljković, Zorica Mršević, Dragana Nikolić Solomon, Meho Omerović, Filip Pavlović, Vesna Petrović, Dejan Randić, Danko Runić, Vladimir Todorić, Daliborka Uljarević, Nataša Vučković, Đorđe Vuković

Media and media associations:

24 Hours (24 sata), Associated Press, Avala, B92, Beta, Blic, Danas, Dnevnik, e-Newspapers, FoNet, Index Radio, Mondo, MTV, NIN, New Radio Belgrade, the Independent Association of Vojvodina Journalists, Radio Free Europe, Independent Association of Journalists of Serbia, Optimist, Pink, Politika, First TV, Radio 021, Radio Belgrade, Reuters, RTS, Studio B, Evening News, Tanjug, Serbian Association of Journalists, Time (Vreme)

Companies:

Real estate agency Triumph011, Agency Bravo, EXIT festival, Ginger RCA, Interprint, Café Smiley, KC Grad, Club Apartman, Club Pleasure, Outline Creative, Media Centre Belgrade, Oriontelekom Hosting, Radio Café, Safe, and many others...

And all those who support LGBT people in Serbia.

GSA FOREWORD

Advances that had been accomplished in the previous several years related to improving the status of lesbian, gay, bisexual and transgender (LGBT) people in Serbia, were called into question in the year 2011 when the National Security Council and the Ministry of Interior banned the Pride Parade, citing great security risks.

The step backwards that occurred as a result of this act, and the confusion which reigned in that period surrounding the Parade, not only among politicians and government officials, but also in the LGBT movement itself and the LGBT community, left a bad impression among a large portion of Serbian citizens and raised the question – whether and to what extent the government was ready to tackle violence and discrimination.

Even though the year 2011 in general does not deserve a positive mark for the work on the affirmation of human rights of the LGBT population, on increasing the levels of tolerance and concrete measures for reducing violence and discrimination by the government and relevant institutions, but rather shows stagnation in comparison with 2010, GSA feels that the year 2011 was an important experience in the process we are in and that we must not falter before future challenges.

For this reason, we have named this report “Freedom is not given, it’s taken” with the wish to use this often quoted statement as a reminder of all the difficulties nearly every movement and individual faced while fighting for democracy and human rights, which they eventually won. Furthermore, with this sentence we wish to thank all those LGBT people who made the decision in 2011 to not accept homophobia and discrimination, but to courageously fight for themselves and their rights. They were a noticeably larger group than in the previous years.

Sincerely,
Gay Straight Alliance



I **INSTEAD OF AN INTRODUCTION**

MESSAGE FROM A.Ž. (24)¹ TO THE PARTICIPANTS OF THE PROTEST “IT’S ENOUGH!”

I am one of many to whom this has happened – it could have happened to any one of you!

I know my friends are afraid to report similar attacks which happen to them, but I have decided not to back down. I defended myself that night, and now I will not keep quiet! And it does not matter whether I am a lesbian or I am straight – somebody tried to kill me!

I am outraged and angry that they released the person who tried to take my life... What would it take in order for the authorities to hold him and remove him from the streets, as dangerous as he is? If I hadn’t defended myself and if he had managed to stab me or kill me, would that be reason enough to hold him in custody? What happened to me will keep happening until we offer resistance to both those who commit violence and those who instigate it.

Because, people, life is precious! Don’t let anyone trample you, don’t hide within your “four walls” and don’t be afraid of freedom!

I wish to live and I wish for my life to continue. I do not wish to go anywhere, this is my city, which I love, and I will not let such maniacs drive me away. And I do not wish to have them represent Serbia and our future!

Thank you immensely for all your support, it really means a lot to me.

1 A girl attacked on 15 October 2011 in the centre of Belgrade because she wore a shirt with LGBT symbols. As a reaction to this attack GSA organised the protest “It’s Enough!” in front of the Serbian Government Building on 19 October 2011.

II DOES INSTITUTIONAL DISCRIMINATION OF THE LGBT POPULATION EXIST IN SERBIA?

As GSA claimed in previous annual reports, when we speak of human rights of LGBT people in Serbia we can no longer talk about the existence of institutional discrimination, but rather of individual instances, and certainly of the need to raise awareness and knowledge of the employees in state institutions regarding the rights and questions which concern the LGBT population. However, at the end of 2011, the public opened the subject of institutional discrimination, i.e. its systemic direction at LGBT people, with claims that it not only exists, but that it is very strong. Bearing in mind the explanations which were then given to support the theory that institutional discrimination exists (Labris), GSA finds it necessary to touch upon that subject with the remark that it is very important to first define the terminology and then use adequate methodology to prove or disprove stated claims. Since the capacity of this report does not allow for a more comprehensive analysis, we offer the following text by *prof. dr Zorica Mršević*, originally written for GSA web site, as a contribution to future discussions on this subject.

"The study of the social phenomenon of discrimination is a way of understanding unequal social relations of power in causal and contextual framework of their conception, development and the possibility of their suppression by considered social policies and measures.

The process of that analysis usually begins with differentiating between the ways individual, institutional² and structural³ discrimination function. The first type, individual, is the clearest, for it includes the legally forbidden and sanctioned behaviour of the "one on one" kind, i.e. it is known who is the discriminator and who is the victim. In contrast, structural discrimination includes fixed discriminatory phenomena and traditions, the

2 Institutional discrimination is the policy of institutions of the dominant racial/ethnic/gender group, as well as the behaviour of individuals who control these institutions and implement their policies, with the intent to treat differently and/or achieve harmful consequences to members of other racial/ethnic/gender groups (definition from: Pincus, F. L., "Discrimination Comes in Many Forms: Individual, Institutional, and Structural" in: Adams, M., Blumenfeld, W., Castaneda, R., and others, *Readings for Diversity and Social Justice*, New York and London: Routledge, 2000, p. 31 - 35.)

3 Structural discrimination is the policy of institutions of the dominant racial/ethnic/gender or other groups and the behaviour of individuals who implement the policy and control the institutions, with the intent which is racially/ethnically/gender-wise neutral, but has as a result different and/or harmful treatment of minority racial/ethnic/gender and other groups. We can speak of structural discrimination every time when institutions have a so-called neutral, i.e. the same policy towards everyone disregarding the differences that characterise members of certain minority groups (definition from: Pincus, F. L., "Discrimination Comes in Many Forms: Individual, Institutional, and Structural" in: Adams, M., Blumenfeld, W., Castaneda, R., and others, *Readings for Diversity and Social Justice*, New York and London: Routledge, 2000, p. 31 - 35.)

remains of a discriminatory culture, the long-lasting discriminatory practices, the ways of behaviour that are rarely questioned and that are still often felt as indisputably “normal” and “natural”. Here the perpetrator is usually not an individual liable person; the side that is discriminated against includes entire groups of people and not just individuals; and such behaviour is often not even illegal.

In between these two types, the individual and the structural, is the institutional discrimination. When you are discriminated by an institution, then that is institutional discrimination. But is it that simple? Apparently not, because we must differentiate between official institutional discrimination and the one which is not foreseen by any law or official documents that regulate the work of institutions.

Official institutional discrimination would include hypothetical cases if some law, court ruling or ministry policy contained a section saying that, e.g. people of LGBT orientation were forbidden to teach in schools, to be treated in clinics and hospitals, to be judges and prosecutors, to get a job in the police department, to get a place in a student home, to acquire a licence to open a hairstyling or a massage salon, to register a dental or a gynecological practice. In Serbia this type of institutional discrimination does not exist. It is, moreover, forbidden by the Anti-Discrimination Act, as well as the antidiscriminatory sections of many other laws. In that sense, there really is no institutional discrimination in Serbia.

However, how do you call the situation when an LGBT person working in an institution is put under such pressure that resigning is the only way out, for example, through making it impossible for them to do their job or giving them an impossible workload which does not even fall within their job description, i.e. through mobbing of the type “empty desk” or “overfull desk”? How many teachers and professors in schools at all levels, how many members of parliament or councilmen in local self-governments, how many doctors will ever admit to anyone that they are LGBT? How are we to understand a shrug and a reply “we don’t know, we don’t have such people, we suspect that some are, maybe” to the question how many openly out LGBT people there are in the judiciary, in schools at all levels, in the National Assembly, in the government bodies, in the police, in the healthcare system? This can be called structural discrimination at work within institutions, or unofficial institutional discrimination.

On the record, no one can be discriminated in and by institutions on the basis of their LGBT status. Unofficially and off the record, in spite of every official system, it is happening.

The measures and policies for suppressing the practice of discriminating LGBT people in institutions and by institutions are potentially numerous and varied (e.g. “naming and shaming”, documenting discriminatory cases and practices, media campaigns, and similar), but they are all based on essentially indispensable and important basis of the non-existence of official institutional discrimination, moreover the fact that it is specifically forbidden by the law.”

III LEGAL FRAMEWORK

Homosexuality was decriminalised in Serbia in 1994, and antidiscrimination provisions, as well as those that include sexual orientation and/or gender identity, exist at this moment in the following legal documents:

- The Constitution of the Republic of Serbia⁴
- The Criminal Code of the Republic of Serbia⁵
- Anti-Discrimination Act⁶
- Labour Act⁷
- Higher Education Act⁸
- Broadcasting Act⁹
- Public Information Act¹⁰
- Youth Act¹¹
- Health Insurance Act¹²

Even though Serbian legal framework is adequate for combatting violence and discrimination, the problems with its implementation are still evident. In 2011 negotiations began with representatives of state institutions on the need to introduce the concept of hate crime into the Criminal Code as an aggravating circumstance at sentencing, and the idea to adopt a strategy for combatting violence, discrimination and homophobia was initiated.

A big problem is also the non-existence of state statistics on cases of violence that would be kept not only according to the type of crime but also according to motive. In addition to consultations with the offices of Ombudsman and the Commissioner for Information of Public Importance and Personal Data Protection, the Police Directorate of the Ministry of Interior was also involved in the preparation of this Report, in order to compare the trend of reporting cases and determine each one's status in the pro-

4 http://www.parlament.gov.rs/upload/documents/Ustav_Srbije_pdf.pdf

5 http://paragraf.rs/propisi/krivicni_zakonik.html

6 <http://www.ravnopravnost.gov.rs/files/zakon-o-zabrani-diskriminacije.pdf>

7 http://www.paragraf.rs/propisi/zakon_o_radu.html

8 http://www.paragraf.rs/propisi/zakon_o_visokom_obrazovanju.html

9 <http://www.uns.org.rs/Storage/Documents/2009/Zakoni/zakon%20o%20radiodifuziji.pdf>

10 http://www.paragraf.rs/propisi/zakon_o_javnom_informisanju.html

11 http://www.paragraf.rs/propisi/zakon_o_mladima.html

12 http://www.rfzo.rs/download/Zakon_o_zdrav_osiuranju.pdf

cess of its resolution. Considering the very different databases kept by the Ministry of Interior and Gay Straight Alliance, data comparison did not go without difficulties which are, regarding the above-mentioned statistics, objective in nature, and they should be adjusted and coordinated in the future.

In Serbia there is no legislative that in any way regulates same-sex unions and property or other relations within these unions. In 2011, representatives of the Committee for Creating the Civic Code, which was formed by the Serbian Government to work on codification of real legal, obligational, domestic and inheritance relationships, opened the public debate on the topic of legally regulating same-sex unions and the dilemma connected to adopting a special legal document which would be foreseen by the Civic Code. However, concrete suggestions and conclusions of the Committee related to this can only be expected when the proposed Code enters parliamentary procedure some time during 2013.

IV EVENTS OF IMPORTANCE FOR THE STATUS OF HUMAN RIGHTS AND THE STATUS OF LGBT PEOPLE IN SERBIA IN 2011

- Court cases and verdicts for leaders and members of extremist right-wing organisations “Obraz” and “SNP 1389” for discrimination of the LGBT population and obstruction of the 2009 and 2010 Pride Parades.
- Reconstruction of the Government of the Republic of Serbia, abolishment of a separate Ministry for human and minority rights and its annexation to the Ministry for Public Administration and Local Self-Government, within which the Human and Minority Rights Directorate was formed after a few months (March 2011).
- Commissioner for Protection of Equality in her decision and recommendations instructed a mitropolit of Serbian Orthodox Church, Amfilohije Radović, to publicly apologise to the participants of the 2010 Pride Parade for his hate speech, and to abstain in the future from statements that encourage discrimination, hatred and violence towards the LGBT population (March 2011).
- After a joint appeal from two LGBT organisations to the Ministry of Foreign Affairs, the Republic of Serbia supported the *Joint Statement on Ending Violence and Related Human Rights Violations Based on Sexual Orientation and Gender Identity* in the Human Rights Council of the United Nations (March 2011).
- Forming the team and equipping the office of the Commissioner for Protection of Equality (June 2011).
- Verdict of the Higher Court in Belgrade against daily newspapers “Press” for hate speech against the LGBT population (June 2011).
- Working Group formed by the Commissioner for Protection of Equality compiled and presented a set of Recommendations to the Ministry of Education and Science of the Republic of Serbia, the National Education Council, and the Centre for Improving the Quality of Pedagogy and Education, for removing discriminatory content from teaching materials and practices and for promoting tolerance, respecting diversity and human rights (July 2011).
- Adoption of Amendments and Addendums to the Health Insurance Act, which allow state-financed sex-change (July 2011).
- Pride Parade 2011 banned by the National Security Council of the Republic of Serbia and the Ministry of Interior (September 2011).
- After the attack on A.Ž. (24) there was a protest against violence over the LGBT population in front of the Government of the Republic of Serbia, entitled “It’s Enough!”.

at which, among other things, protesters asked that the concept of hate crime be introduced into the Criminal Code, as well as for the creation and implementation of a strategy for combatting violence, discrimination and homophobia (October 2011). After the protest, meetings were held with representatives of the Government of the Republic of Serbia regarding these two demands.

- Process of European integrations of Serbia, postponement of candidacy and the decision of EU institutions to open negotiations with potential member-states in the future with sections 23 and 24, which refer to, among other things, the rule of law and the respect of human rights (October 2011).
- First-instance verdict of the First Basic Court in Belgrade for severe discrimination of **LGBT people against Dragan Marković Palma**, president of the political party One Serbia (Jedinstvena Srbija, JS) and the mayor of Jagodina, marking the first time in Serbia that a politician is penalised for hate speech and discrimination of the LGBT population (November 2011).
- Constitutional Court of Serbia upheld the constitutional appeal of the 2009 Pride Parade organisers and declared as unconstitutional the decision of the Ministry of Interior to move the assembly to another location, thereby confirming the violation of the right to free assembly (December 2011).
- Prolonging the proceedings before the Constitutional Court of Serbia for the prohibition of extremist right-wing organisations and hooligan groups, such as “Obraz“, “SNP 1389“ and others.
- Mild increase in recorded cases of violence and discrimination based on sexual orientation and gender identity.
- Providing the conditions for opening the Safe Space for Victims of Violence based on Sexual Orientation and Gender Identity in cooperation with the City of Belgrade.
- Working Group for Determining the Priorities for Safety of People and Property in Belgrade, formed after Pride Parade 2010 by the Assembly of the City of Belgrade, created recommendations for the measures that are necessary for improving the quality of security in Belgrade, which were adopted by the Assembly of Belgrade, and which also include recommendations for creating a strategy in this area and for setting up a City Security Council (July 2011).
- Among the most important cultural events for the LGBT population in 2011 were: the movie “Parade“ (“Parada“) directed by Srđan Dragojević, the music festival “IDAHO week“ in Belgrade (May 2011), “Merlinka“ film festival in Belgrade (December 2011), Loud&Queer stage at the EXIT music festival in Novi Sad (July 2011), promotion of the Queeria calendar for 2012 (December 2011), as well as the regular publishing of gay magazine/guide “Optimist“, which was started in July 2011.

V SUMMARY OF THE REPORT

The safety of LGBT people, i.e. the reduction of violence and discrimination, remained in 2011 a priority in the process of improving the status of this population. Through the process of organising the second Pride Parade, and through a mild increase in reported and processed cases, which included extremely serious physical assaults, the year 2011 again showed that the LGBT population is still greatly subject to violence and discrimination in Serbia.

Advances achieved in 2010, related to organising the first successful Pride Parade and improving the attitude of political elite and institutions towards the LGBT issue, were brought into question in 2011. By banning the Pride Parade planned for 2 October 2011, which will be further discussed in a separate section of this report, the state prohibited LGBT people from exercising one of their basic human rights – the right to a free assembly. In addition, as opposed to 2010, politicians gave affirmative statements on this event to a noticeably lesser degree, which resulted in the dwindling of political support and the unwillingness of state institutions to provide the conditions necessary for holding the Pride Parade. At the end of 2011, the Constitutional Court upheld the constitutional appeal of the 2009 Pride Parade organisers, thereby confirming the violation of the right to free assembly, and on this basis a similar decision can be expected regarding the ban of the 2011 Parade.

International organisations and European institutions remained interested in the status of human rights of LGBT people in Serbia during 2011, and this topic was also covered in the Opinion on Serbia's application for EU membership and the Analytical Report of the European Commission from October 12. EU institutions furthermore reached a decision to open negotiations with potential member-states in the future with sections 23 and 24, which, among other things, refer to the rule of law and the respect of human rights. This is a significant change and a mechanism for improving the rights of LGBT people in Serbia.

Hate speech against the LGBT population on social networks and in the public space again shadowed the process of organising the Pride Parade and other activities of LGBT organisations, but to a slightly lesser degree than in 2010. The year 2011 also saw the first verdicts of hate speech against LGBT people – first in the case against the daily newspapers "Press", and then Dragan Marković Palma, who received the first-instance verdict of severe discrimination of the LGBT population for his media statements. Some of the threats on social networks directed at the Parade organisers and LGBT activists were also processed ex officio. In addition, the Commissioner for Protection of Equality instructed a mitropolit of the Serbian Orthodox Church, Amfilohije Radović, to apologise to the participants of the 2010 Pride Parade and to abstain in the future from discrimination and hate speech. This decision of the Commissioner certainly sets a positive precedent in the former practice of institutions to keep silent and not apply the existing laws and regulations when it comes to representatives of the Serbian Orthodox Church.

The judicial system was somewhat more efficient in 2011 in processing cases against the leaders and members of right-wing extremist organisations "Obraz" and "SNP

1389“ for discrimination of the LGBT population and for obstructing the 2009 and 2010 Pride Parades. Representatives of LGBT organisations GSA and Labris appeared as witnesses in these proceedings, but the verdicts were on the limit or even below the legal limit. The Constitutional Court of Serbia still did not reach a decision in 2011 regarding the proceedings, started in October 2009 by the Republic Prosecutor, which seek to ban right-wing extremist organisations and hooligan groups. Moreover, the right-wing organisation “Dveri“, which is infamous in the public for its homophobic attitudes, but which is not a defendant in any legal proceedings, announced its participation at the 2012 parliamentary elections.

According to a study by the Public Policy Research Centre called “Vulnerable Groups and Security Sector Reform (SSR) in Serbia: LGBT Case Study“¹³ presented in December 2011, LGBT people still have little confidence in the work of security institutions and are unwilling to report cases of violence and discrimination to the relevant institutions. However, GSA noticed a somewhat different trend during 2011 regarding the cases that were reported to this organisation. A higher number of victims of violence and discrimination than was the tendency in previous years reported their cases to the police, often at their own initiative, i.e. after the incident they would first address themselves to the police, and they showed a greater readiness to fight for their rights through institutions. It is too soon to tell whether this trend will turn out to be the rule, but it is certainly a strong basis for furthering the cooperation of LGBT organisations with the police and the judiciary, as well as strengthening the confidence of the LGBT population in the work of judicial institutions.

After the attack and attempted murder of A.Ž., as a reaction to this incident, a protest was organised in front of the Government Building of the Republic of Serbia, where the protesters demanded that measures for reducing violence and discrimination of the LGBT population and other minority groups be urgently undertaken. The organisers of the protest registered the assembly in a regular procedure and no special security strategy was coordinated with the police. The police force secured the event, which passed peacefully and without incidents. After the protest, talks began with the Ministry of Justice and the Ministry for Human and Minority Rights, Public Administration and Local Self-Government regarding the need to introduce the concept of hate crime into the Criminal Code and to create a national strategy for combatting violence and discrimination.

During 2011 the police continued to secure places of gathering of the LGBT population, such as clubs and cafés, as well as events organised by the LGBT organisations – press conferences, presentations, etc. The most drastic instances of attacks on places of gathering occurred in Novi Sad, where the Youth Centre CK13, which is involved in organising cultural events, activism and improving the status of the LGBT population and other minority groups, was targeted throughout the year. This institution endured various attacks, from graffiti, to window-breaking, to throwing Molotov cocktails.

13 <http://publicpolicy.rs/wp-content/uploads/2011/12/LGBT-populacija-i-reforma-sektora-bezbednosti.pdf>

The education system still has not shown readiness to systemically deal with peer violence and discrimination based on sexual orientation in education institutions. School books are still filled with homophobic attitudes, which was a topic for a Working Group formed by the Commissioner for Protection of Equality. In July, the Working Group compiled and presented a set of Recommendations to the Ministry of Education and Science of the Republic of Serbia, the National Education Council and the Centre for Improving the Quality of Pedagogy and Education, for removing discriminatory content from teaching materials and practices and for promoting tolerance, respecting diversity and human rights. According to a research conducted by the Helsinki Committee for Human Rights entitled "*Attitudes and value orientations of high school students in Serbia*"¹⁴, there is a need for an intervention in the education system regarding the education about LGBT people and increasing tolerance of LGBT people. The results of this research are very troubling, both in the short-term and in the long-term. Over 70 per cent of high school students in Serbia has homophobic attitudes, 41 per cent thinks that LGBT people are sick, and 22 per cent thinks these people deserve a beating. According to the reports that GSA received during 2011, such attitudes are probably a product of reproducing the attitudes of the teaching staff, who are still mostly not sensitised on the issues concerning human rights of the LGBT population.

Important positive steps in the area of health care and the status of transgender people were taken through the adoption of the Amendments and Addendums of the Health Insurance Act, allowing the sex-change costs to be covered by the Republic Fund of Health Insurance. The Bill initially caused some negative discussion in the public, but the Ministry of Health as the proposer of the bill did not give up on the proposed changes. These amendments and addendums of the Law came into effect in January 2012, but even though this is a significant step forward for the status of transgender people in Serbia, there is still a legally undefined area of changing personal documents after the sex-change operation.

The City of Belgrade and city institutions included in 2011 among the areas that require attention - LGBT rights and the safety of LGBT people. Representatives of the city authorities participated in the preparation of the Pride Parade again in 2011. The Working Group for Determining the Priorities for Safety of People and Property in Belgrade, formed after the 2010 Pride Parade by the Assembly of the City of Belgrade, created recommendations for the measures that are necessary for improving the quality of security in Belgrade. Non-governmental organisations, including GSA, were also included on a consulting level in this process and the Recommendations were adopted by the City Assembly. Agency for European Integration and Cooperation with Associations of the City of Belgrade began the development of the Strategy for Improving the Cooperation with the Civic Sector and Citizens, and this process also included LGBT organisations. As was announced in May 2011, the Mayor of Belgrade and the city government provided conditions for opening the Safe Space for Victims of Violence based on Sexual Orientation. Furthermore, the City of Belgrade supported some cultural events important for the LGBT population, including the festival "IDAHO week".

14 <http://www.helsinki.org.rs/serbian/doc/sveske31.pdf>

In the field of culture and information several important events were organised during the year, such as the already mentioned "IDAHO week", the film festival Merlinka and the presentation of the popular Queeria Calendar for 2012. Belgrade was host to the exhibition "Nazistic terror over homosexuals from 1933 to 1945". It is very important to mention the publishing of the only gay magazine and guide "Optimist", which became recognisable in a short time and continued coming out regularly. In cinematography, and also in the Serbian public, the year 2011 will be remembered for the first Serbian film with the theme of organising a pride parade – the movie "Parade" directed by Srđan Dragojević. Even though there were some criticisms for stereotyping the LGBT population, this film certainly contributed to reducing the misunderstanding of LGBT population by the majority and to the so-called mainstreamisation of the LGBT issue. The movie achieved great ratings in Serbia and the region, and another important fact is that its production was financed by state cultural institutions from Serbia and the region.

It is extremely difficult to give a general evaluation mark for the year 2011 on the respect of human rights of LGBT people, given the existing evaluation standards. As can be seen from this summary, there was both progress and regress in different areas, which can be attributed to the lack of a systemic approach and undefined priorities of the state and its institutions which characterised this year once again. The state made some progress on various levels in the field of making policies and recommendations regarding LGBT rights, but the noticeable problem is concerned with the implementation of both the recommendations and the existing laws, as well as the lack of concrete measures for improving the status of the LGBT population, reducing violence and discrimination, and increasing tolerance. The ban on the Pride Parade and the dwindling of political support, even though the Parade is certainly not the only event of importance for the LGBT population and it would be a mistake to view it as such, reflect negatively on the final evaluation mark of the state's work on the LGBT issue, so that in 2011 we may speak of stagnation when compared to the previous year.

A still high level of homophobia in the society puts LGBT people in one of the most vulnerable minority groups in Serbia, subject to violence and discrimination at various levels and in various areas. As in the previous years, GSA will present in this Report several cases of violence and discrimination on the basis of sexual orientation and gender identity that have been processed by the Legal Service of GSA or that have been reported to GSA throughout the year by the victims. This year, the Police Directorate was involved in determining the status of the reported cases, i.e. the point where they are at in being resolved, which is a major step forward in contrast to the previous period and GSA hopes that this form of cooperation will continue in the future.

The cases of violence and discrimination are given in the Report according to constitutional categories and they might possibly be the best indicators on the basis of which to draw conclusions regarding the state of human rights of LGBT people in Serbia.

VI THE RIGHT TO LIFE

Human life is inviolable.¹⁵

ATTEMPTED MURDER OF A.Ž. (24) IN THE CENTRE OF BELGRADE

On 15 October 2011 some time before 4 a.m. three attackers followed A.Ž. and her two female friends from Brankova Street and Zeleni Venac to the corner of Carice Milice and Maršala Birjuzova in the centre of Belgrade. After noticing that underneath her jacket, which was buttoned half-way, A.Ž. wore a shirt with symbols of the LGBT movement, one of them assaulted her with curses and several times shouting the question whether she was a lesbian. Soon after, he began hitting her. A.Ž. tried to defend herself, but the attacker then drew out a knife and attacked her with it. A.Ž. received in the attack serious physical injuries – a deep laceration of the right hand with severed tendons, a head contusion, as well as multiple bruises and cuts on the body which were caused by the punches and kicks of the attacker. A.Ž. offered resistance with the intent to defend her life, and so among other things she grabbed the blade with her hand and thus avoided injuries that could have been fatal. After the attack, the police investigated the incident and drove A.Ž. to the Emergency Centre.¹⁶

According to records received from the Ministry of Interior of Serbia, charges were filed to the Higher Public Prosecutor – Department for underage persons – against an underage perpetrator of a criminal act for the reasonable suspicion that he committed the criminal act Serious Bodily Injury. A.Ž. gave her testimony to the investigative judge of the Higher Court in Belgrade in April 2012.

The attempted murder of A.Ž. and the release from custody of the underage attacker after the attack were the reasons why Gay Straight Alliance organised a protest against violence under the slogan “It’s Enough!” in front of the Serbian Government Building on 19 October 2011. At the protest, among other things, the protesters asked that a national strategy against violence and discrimination be adopted and that the concept of hate crime be introduced into the Criminal Code of the Republic of Serbia.

Seriously injured A.Ž. could not be present at the protest, but she sent a public message to the other participants.¹⁷

15 The Constitution of the Republic of Serbia, article 24, paragraph 1.

16 From the statement of A.Ž. on the incident, Internal documentation of GSA, 15 October 2011

17 See section I of this report

VII INVIOABILITY OF PHYSICAL AND MENTAL INTEGRITY

Physical and mental integrity is inviolable. No one can be subject to torture, inhuman or humiliating treatment or punishment, or subjected to medical or scientific experiments without their freely given permission.¹⁸

1. ATTACKS ON THE BASIS OF REAL OR PERCEIVED SEXUAL ORIENTATION/ GENDER IDENTITY OF THE VICTIM

1.1. ATTACK ON K.N. (25) IN THE CENTRE OF BELGRADE

On 20 March 2011, around 5 a.m., K.N. started going home after a gay party in the club “French maid” in the centre of Belgrade, when he was suddenly attacked at the exit by two men. He received several blows to the head, after which the club security separated him from the attackers, who then escaped in a car. When the police arrived to the scene, K.N. gave them a statement with a detailed description of the incident and the attackers, and then went to the Emergency Centre with his friends. After receiving medical treatment, K.N. did not wish to go further with the case or inform the wider public about it, due to family reasons.¹⁹

According to records received from the Ministry of Interior of Serbia, police officers of the Police Directorate for the City of Belgrade are working on identifying the persons who physically attacked K.N.

1.2. ATTACK ON I.Đ. (31) IN THE CENTRE OF BELGRADE

The attack occurred on 6 May 2011 at 5 a.m. in front of the club “Plastik” in Belgrade. The club was hosting a party to celebrate the festival “Days of Sarajevo”, organised by the Youth Initiative for Human Rights. Entrance to the club was free, but most of the people were invited by the organisers.

Around 5 a.m., the first to leave the club was A.M., while I.Đ. and his girlfriend A.S. were held up waiting for their jackets. At the exit, A.M. was opening the door but he hesitated there, and an unknown young man behind him impatiently went to open the

¹⁸ The Constitution of the Republic of Serbia, article 25.

¹⁹ From the statement of N.K. on the incident. Internal documentation of GSA. 22 March 2011

door causing A.M.'s hand to get caught between the door-knob and the door. A.M. told the young man "Easy, pall, you'll break my hand", and the young man replied "Come on, I want to get out", and then he exited after A.M. moved. A.M. then went out onto the street in front of the club and sat down on a small wall/fence of the Faculty of Mining and Geology. In the next five minutes he sat there alone and he talked briefly with an acquaintance who was passing by.

Afterwards, A.S. and I.Đ. came out of the club. At this point, there were four or five men gathered around the young man who had that previous encounter with A.M. at the door of the club, and one of these men taunted A.M. with the question: "How's the hand?", at which A.M. replied "Everything is O.K. now, no problem." Then that man approached A.M. and said: "Do you want me to break both your arms and legs now?" at which A.M. replied: "No need, everything is fine", but the man continued saying "Do you want me to kill you?!" at the same time grabbing a bottle which was standing near A.M.'s head on the fence where he was sitting. In that moment, A.M. stood up and went into the club where he explained to the security what was going on, but they responded by saying it was none of their concern because it was happening outside of the club.

In the meantime in front of the club I.Đ. entered into an argument with the young man who had threatened A.M. This man asked a series of questions in order to establish whether I.Đ. and A.S. were really a couple, that is, whether I.Đ. was gay or not, and then he told I.Đ. to go away because "he was normal and he was there with his girlfriend", along with a series of unpleasant comments addressed at A.M. and holding the bottle in his hand, which obviously was meant to scare A.M. In an attempt to avoid an incident, I.Đ. and A.S. again entered the club, and from there called a taxi for A.M., because it was clear that those guys were determined to have a fight with A.M. The taxi for A.M. stopped at the corner of Takovska and Dalmatinska Street, and then A.M. quickly went towards it with a hood over his head. The young men in front of the club saw A.M. and ran after him towards the taxi. They yelled: "Get the faggot out of the taxi so we can kill him!" I.Đ. ran out of the club to protect A.M., who managed to get into the taxi and get away, while I.Đ. received the first punch into his face, which caused him to fall down and briefly lose consciousness. The attackers kept kicking him, aiming at the head and chest for some time. Fortunately, I.Đ. protected himself on time with his arms, so he only received a jaw contusion and a few bruises. In this very short period, A.S. and one of the attacker's friends ran up to them. The attacker's friend stopped him from kicking I.Đ. any further, helped I.Đ. to get up and sincerely apologised to I.Đ. The rest of the young men then left with curses, and then several other people came up to I.Đ. and helped him to go and hide in a nearby yard.²⁰

As soon as he got in the taxi, A.M. called the police who came very quickly and took statements from me and A.S., after which A.S. and I went to the Emergency Centre, where my injuries were diagnosed. Three days later, all three of us were called to the police station Palilula, where A.S. and I gave our statements again, and A.M. gave his statement for the first time, this time to the inspector Milan Prica, who showed great interest in solving this case and who was more than efficient in doing his job. A couple of weeks later, inspector Prica told us that he identified the perpetrator and that he passed the case on to other relevant bodies. In August 2011 I was contacted by the

20 From the statement of I.Đ. on the incident. Internal documentation of GSA. 4 January 2012

Prosecutor's Office, which offered to make a deal: if we agreed, I would drop the charges and in exchange the accused would give a donation (several tens of thousands of dinars) to a humanitarian organisation. I refused this offer.²¹

1.3. ATTACK ON L.R. (22) AT A PUBLIC TRANSPORT STOP IN THE CENTRE OF BELGRADE

On 3 June 2011, in the evening, after a walk with his partner L.R. started going home alone. After arriving at a public transport stop in the centre of Belgrade, there came a group of 7-8 of his acquaintances from high school, who knew about his sexual orientation. He did not greet them, but ignored them and kept reading, when one of them approached him and started punching him in the head. The rest of the group stopped the attacker and then they quickly went away. After the attack there were no greatly visible marks on L.R.'s face and head.

The victim did not want to report the case to the police and other relevant institutions, because he felt that the process of reporting it would take up too much time and he was at that time preparing to leave Serbia.²²

1.4. ATTEMPTED ASSAULT ON Đ.I. (21) IN THE CENTRE OF BELGRADE

On 18 July 2011, around 2 p.m. Đ.I. was walking down Nemanjina Street towards a nearby public transport stop, when from the direction of a nearby park he was approached by three unknown men, who stopped him pretending to ask for a cigarette. Immediately afterwards they started yelling and threatening him, uttering offensive homophobic curses. After they went at him to physically attack him, Đ.I., despite being very frightened, managed to get away and take out a mobile phone from his bag in order to call the police. This stopped the attackers, who stayed for some time turned towards him shouting at the top of their voices "Kill the faggot!", and then they ran away in the opposite direction.²³

Đ.I. reported the case to the police station Savski Venac. According to records received from the Ministry of Interior of Serbia, the report was passed on to the First Municipal Public Prosecutor in Belgrade, while the police directorate for the City of Belgrade is undertaking measures and actions within their jurisdiction in order to find the attackers.

1.5. ATTACK ON I.I. (29) AND K.S. (18) IN THE CENTRE OF RAKOVICA

On 26 July 2011 in the afternoon, I.I. and K.S. were walking in the central streets

21 Ibid

22 From the statement of L.R. on the incident, Internal documentation of GSA, 6 June 2011

23 From the statement of Đ.I. on the incident. Internal documentation of GSA, 18 July 2011

of Rakovica in Belgrade, when suddenly from behind an unknown man came up to them, grabbed them both around the neck with his arms and asked them if they were gay. I.I. and K.S. tried to free themselves, but the attacker only tightened his grip. K.S. managed to twist out of his grasp and got away, after which the attacker started hitting I.I. hard over the head with his free fist, accompanied by numerous insults. In self-defence I.I. grabbed the attacker's face, hurting the attacker's eye and scratching him. This helped him to free himself from the attacker's grip and then he began yelling and calling for help. The attacker started to run away. I.I. ran after him in the attempt to stop him and as he ran he phoned the police telling them about the attack. He did not manage to catch up to the attacker, so he waited for the police patrol, who investigated the incident and drove him to the Emergency Centre.²⁴

I.I. reported the attack to the police. According to records received from the Ministry of Interior of Serbia, the case was not reported or recorded in Rakovica police department.

1.6. ATTACK ON D.D. IN DUNAVSKI PARK IN NOVI SAD

On 26 August 2011, around 11 p.m. D.D. was sitting on a bench talking with his friend at the end of Dunavska Street near the entrance to Dunavski Park. On their right, sitting on another bench there were two girls and one young man, and they were shortly joined by another two young men.

After we left the bench and started towards Dunavska Street, we heard someone running behind us – those guys who had been sitting on the other bench ran up to us and with numerous homophobic insults, they threw me into the bushes and started kicking me in the head, while they broke my friend's glasses and gave him three punches in the head. The attack lasted some 30 seconds. It was all happening before the eyes of at least twenty people, but nobody reacted.

After I regained consciousness, I saw my friend bleeding, so I took him to a nearby pizzeria and asked them to give him a glass of water and let us use their bathroom to wash our faces. We called the police, who did not come to the scene, but to the Emergency Centre when our injuries were already taken care of. They took a statement, but to this day I have not received any calls to testify or any news about the development of the case.

From private contacts in the court I found out that in the months of July and August of 2011 there occurred 10 attacks in the same place at the same time for the same reasons, and that among the victims of violence there were also a woman and a girl. I do not wish to insinuate, but through a friend I managed to find a Facebook profile of someone who I think is a violent man, where plans and "actions", as they call them, are being posted. As for me, I returned to Italy a week after the attack and I am not planning to come home any time soon.

I hope this information will be of some use to you for the purpose of prevention of such incidents. As for me, I am indifferent as to my situation, because I am past it and I have a life somewhere else. If my story can help anyone, of course I will tell it, but I

24 From the statement of I.I. on the incident. Internal documentation of GSA. 26 July 2011

*doubt anything can be done about my case without starting an avalanche of related events, because before anything else I have a sister I'm caring for. I am asking for full discretion and hiding my identity because I would definitely not like to have it known for the already mentioned reasons. I sincerely hope that the police will at least have patrols there so that the attackers would hide and not act so brutally.*²⁵

According to records received from the Ministry of Interior of Serbia, the case was not reported or recorded in the police station Stari Grad of the Novi Sad Police Directorate.

1.7. ATTACK ON B.I. (20) IN NOVI BEOGRAD

In the night between 26 and 27 August 2011, after walking with some female friends B.I. started going home in their company. A group of young men who were nearby began to come near them. One of the men then approached B.I. and tried to talk with him asking B.I. if he had a girlfriend. One of B.I.'s friends, who had lagged behind, called after her friends as a joke: "Wait for me, you fags!", but that made the young man who was interrogating B.I. to react saying: "Who is a fag here?" Then he stood in front of B.I. and yelled: "Don't pretend to be deaf!" B.I. tried to avoid a conflict, but soon afterwards he received a punch to his head. He tried to run away, but two young men from the group caught him, knocked him on the ground and kicked him in the head and body. The entire attack lasted about a minute and a half, after which B.I. managed to get up and run away from there, while the two attackers calmly walked away from the scene.²⁶

B.I. immediately afterwards gave a statement to the Novi Beograd police, and then went to the Emergency Centre for treatment. According to records received from the Ministry of Interior of Serbia, police officers of the Police Directorate for the City of Belgrade are working on identifying and finding the attackers.

1.8. ATTACK ON A.R. (18) IN A BELGRADE HIGH SCHOOL

At the very beginning of the school year, on 2 September 2011, A.R. was returning to the classroom after a break, when he was approached by one of the students from the same school.

*A boy stood right in front of me and said: "Yo, bro, why are you such a fag?!" I tried to walk around him in silence, but he wouldn't let me – he stood right in front of me again and punched me hard in the chest saying: "What, is your heart pounding?!", and then he hit me two more times after that. Fortunately, some girl came up to him at that point, and dragged him away. Still, as he was leaving, he taunted me: "I'll find you when you're alone!" I went crying to the psychologist and reported the case to her, and later to the police as well.*²⁷

25 From the statement of D.D. on the incident, Internal documentation of GSA, 2 November 2011

26 From the statement of B.I. and his friends on the incident, Internal documentation of GSA, 27 August 2011

27 From the statement of A.R. on the incident. Internal documentation of GSA, 4 September 2011

1.9. ATTEMPTED ATTACK AND ATTEMPTED EXTORTION FROM N.S. (26) IN THE CENTRE OF BELGRADE

On 30 September 2011 around 3 p.m. N.S. was walking with a friend down the Boulevard of King Aleksandar in Belgrade. They stopped at the traffic lights at the pedestrian crossing diagonally from the Faculty of Law, when they were approached by a young man, about 23 years old, with very short brown hair.

He asked us: "Hey, you fags, are you going to the parade?" I replied: "How do you know who we are or where we might be going?" He continued: "Well that's how you look to me, like fags, your haircuts, the way you dress. We are roaming around the city, me and other Rad fans, we're catching the gays and beating them up! Do you want to give me some money?" I tried not to show fear and said: "I'm not giving you money, let one of them come here and we'll explain ourselves." Our argument ended with his threat: "No one is going to explain anything, they'll just attack you! I could stab you right here, I'm quicker than you, you'd never catch me!" My friend and I tried to find a policeman on the street so that no one else would get hurt, but we couldn't at that moment. In the evening I went to the Vračar police and reported the case.²⁸

According to records received from the Ministry of Interior of Serbia, the report on this attack was passed on to the First Municipal Public Prosecutor in Belgrade, and the attack was qualified as the criminal act Violent behaviour. Furthermore, police officers of the Police Directorate for the City of Belgrade are undertaking measures and actions within their jurisdiction in order to find the attacker.

1.10. ATTEMPTED ASSAULT ON M.S. (25) IN A PUBLIC TRANSPORT BUS IN BELGRADE

On 24 October 2011 around 7 p.m. M.S. was waiting for a public transport bus on Autokomanda, and talking on the phone with a friend.

The bus stop and the usual crowd of people returning from work on the lawn behind the stop. I am in sneakers, jeans, jacket, with a bag over my shoulder, talking to a female friend over the phone and walking around, we are talking about some cheerful things, it's obvious because I'm laughing. Two guys in their early 20s, with short hair, wearing sweats, are sitting nearby and watching me from time to time. The bus arrives and I get in – I go to the front and stand on the steps next to the front doors which aren't working, I lean on the doors facing the driver and continue my conversation. I stood there on purpose, because it wasn't crowded there, since those doors weren't working.

A couple of minutes later, those two guys who were watching me at the bus stop approach me and stop at 20 cm in front of and above me, as if they were waiting for the bus to stop at the next bus stop. One of them asked me to get out. At that, the driver replied that those doors were not working. The attacker again asked me to get out in a raised voice. I told him it wasn't my stop and I didn't want to do that, but he continued yelling and insisting: "Hello! Can you hear me? Get out, faggot!"

²⁸ From the statement of N.S. on the incident. Internal documentation of GSA. 30 September 2011

In that moment a passenger from the middle part of the bus asked the attacker what the matter was and what he wanted with me. The attacker replied: "What do I want?! You see he's a fag! He should get out and find other ways of transportation!" He then grabbed my arm and yelled: "Get out of the bus already! Do you hear me?! Come on, we're not going to do anything to you, just get out!" He turned again towards the driver and asked him to open the door.

In that time, I took my phone and the attacker noticed this: "What, you're gonna call the cops now? Who are you calling?!" I replied: "No, cops are not for you, I'll call my friends from the hood, they are better at dealing with people like you than the cops." Then I pushed my way through towards the middle door, but I was stopped by an older gentleman who told me to come back, asked the attackers to leave me alone and started arguing with them. After that the attackers went into the back part of the bus.

I travelled for another five stops and then got out. Looking around I did not see the attackers, so they probably got out at an earlier stop. I lit a cigarette and walked for the next seven stops, crying and sobbing in fear, because I felt so alone, because I was such an easy target and because it seemed everyone apparently had the right to do whatever they wanted as soon as they saw me in the street or in the neighbourhood...²⁹

M.S. did not want to report the case to the police and other relevant institutions, primarily because he feared his family would find out about his sexual orientation.

1.11. ATTACK ON R.Z. (23) IN NOVI SAD

On 31 October 2011 a little after midnight R.Z. walked his friend home. On the way back to his house he was passing along the same route, when he was suddenly attacked by two unknown men.

I noticed two men who came out from the dark under the bridge and went towards me. They had hoods on their heads and held their hands in their jacket pockets. They passed on the left side so close to me there was barely room between us. In the next second I received the first blow to my back. The other man stood two-three metres behind the attacker while he was beating me. I remember only the first few blows, after which I lost consciousness.

I wasn't aware of anything till about 2 a.m., when I came to, got up and walked to the Clinical Centre Novi Sad. I realised that no one of the likely passers-by in all that time stopped to check if I was alive and what happened to me. At the time of the attack I was wearing very tight jeans, black jacket and black sneakers.³⁰

R.Z. received severe physical injuries, a broken nose, and the attackers stole his money and mobile phone.

R.Z. reported the case to the Novi Sad police. According to records received from the

29 From the statement of M.S. on the incident, Internal documentation of GSA, 26 October 2011

30 From the statement of R.Z. on the incident, Internal documentation of GSA, 1 November 2011

Ministry of Interior of Serbia, the attack was recorded as the criminal act of Robbery from article 206, paragraph 2 of the Criminal Code, qualified by the Higher Public Prosecutor, and charges were filed against unknown attackers to the Municipal Public Prosecutor in Novi Sad, while the investigation of the case is still in progress. In addition, according to records received from the Ministry of Interior of Serbia, during the taking of R.Z.'s statement, it was not mentioned that the attack was motivated by his sexual orientation, and the police officers who are investigating this criminal act did not encounter the information that the attack was motivated by the victim's sexual orientation.

1.12. ATTACK ON M.P. (26) IN THE CENTRE OF BELGRADE

On 26 November 2011 around 2 a.m. as he was going home from a night out M.P. was attacked in Kolarčeva Street in the centre proper of Belgrade.

According to the information on the attack which M.P. (26) reported to GSA, he walked out of a bakery and moved towards a nearby night transport stop, when a young man accompanied by two other young men started taunting him: "Hey, blondie! Hey, faggot, where are you going?!". M.P. asked him what he wanted and told him to leave him alone. M.P. continued towards the Republic Square, but the attacker would not give up and with a lot of curses and homophobic insults he assaulted M.P. several times. First he kicked M.P. in the back and then punched him in the head. M.P. tried to defend himself and to run away, but the attacker was also joined by a friend of his. In one of the attempts to escape towards the night bus, M.P. managed to phone the police, but this did not stop the attacker, who continued beating and insulting him. At the sight of this entire attack, which lasted several minutes, there was no reaction from the passers-by and people waiting for the bus, which is a scenario that has been repeated so many times before and which is becoming the rule with such cases. After ten minutes, police arrived and interviewed the first attacker at the scene, while the others ran away in the meantime. Even though at first the attacker denied that he was involved in the attack on M.P., at one point he loudly threatened M.P. in front of the police officers: "Do you want me to beat you two more hours?!", but the police officers did not react. The police detained the attacker in the police station and took the victim to the Emergency Centre, where he was diagnosed with head and face contusions and prominent bruising above and below the left eye. The police released the attacker in the end.³¹

According to records received from the Ministry of Interior of Serbia, the deputy of the First Municipal Public Prosecutor in Belgrade stated that there were no elements of a criminal act that is prosecuted ex officio, and that misdemeanour charges from article 6, par. 3 and article 12, par. 1 of the Public Order and Peace Act are to be filed against the accused M.M.

After the attack, in his statement on the incident to Gay Straight Alliance, M.P. gave his impressions on the behaviour of the police officers, as well as the attack.

31 "Another attack on a gay person – the Serbian Government still without systemic solutions to violence", press release of GSA. 27 November 2011

I still insisted on the fact that I was attacked in the middle of the city out of the blue for no other reason than that I have blond hair! But the policemen did not seem to realise the clarity and the alarm of the situation. One of them asked me if I needed an ambulance. I wasn't bleeding, so I didn't understand why he was asking me that, since I didn't know the procedure. He said he was asking because he was obligated by the law. At first I refused, but then as I was standing there alone with no idea how to get home and realising that calling the police apparently made no difference, I saw the younger policeman and my attacker, in the company of a passerby who was curiously observing the situation, as they were talking, chatting and laughing. In that moment I realised that that policeman and the attacker were one and the same, that it is the same way of thinking, the same attitude, the same machinery, while I was just somebody on the other side, because in their eyes I was just a "faggot" – not a citizen, not a human being. And so, I was watching that policeman as he was laughing at some joke or witty comment by my attacker, I watched him and couldn't believe it. I thought, the policemen would leave now, and I would be left on the Square without money for a taxi and with that violent man at his mercy to beat me and harass me till the first morning bus. In that moment, I shouted to the younger policeman: "How can you just stand there and laugh with the man who attacked me?!" He immediately got serious and told me: "Am I supposed to be crying, sir? I'm just talking normally." Then I decided: "Call an ambulance, I want an ambulance!" I saw an ambulance as the only way out of that place, literally. "My face hurts really bad!", I said. My attacker laughed that I was asking for an ambulance because of a few bruises and he looked to the policeman expecting to share that impression with him, but since I was observing the policeman in order to see how he would behave, he remained distant.

When I arrived at the Emergency Centre I had time to think about everything, but I had mixed feelings. On the one hand, although that may be a little unusual, I felt sorry for that boy who attacked me. I thought how he had only been manipulated, that he was part of a larger system. But then I soon realised I was falling into that classic situation when the victim starts feeling guilty without any cause. When those images returned to me of his callous behaviour, how he kept kicking me as if I were garbage, how he was all up in my face, and the amount of hatred he wreaked on me, I realised I wanted him to be punished. And not because it was I who went through it, but because I thought anyone could have been in my place, perhaps someone more sensitive. In all honesty, at one point I just felt the need to cry, but then I told myself: "Why should I cry and for whom?" I don't want to follow this through on the count of me, but for all the other young gays who could have gone through the same thing. I'm rising against this not for myself, but for the principle. I don't want to let this keep happening unnoticed. I don't want to allow that this can happen in my country, in my city.

I was thinking about my family, I didn't want them to see what happened to me, because I know what they would tell me in the end – that I shouldn't have dyed my hair, because they are ashamed of me too, they think I'm sick, and that I should keep quiet about who I am, that I should hide, they're worried what the neighbours, family and friends would say. As for me, I'm worried that they don't understand it's been several decades since the World Health Organisation corrected an error and an injustice and took homosexuality off the list of mental illnesses. I'm worried that politicians are washing their hands and constantly pandering to the uneducated masses at the detriment of common sense and what is right. I'm worried that some mothers and fathers listen more to what their neighbours might say than to what their living sons and dau-

ghers say they carry in their hearts and who they were born to love. More than that, they want us all to be ashamed and embarrassed, to hide, and when we're beaten to keep quiet. They say we're evil, sick, perverse. But the evil and sickness is not in us, but in those who teach us from a young age to be ashamed of our nature, they are the ones sullyng others with their ignorance and fears, they are driving us away and forcing us to feel abnormal and unworthy from a young age. They are the ones who should be ashamed. I'm not.³²

1.13. ATTACK ON M.P. (26) NEAR HIS PLACE OF RESIDENCE IN BELGRADE

M.P., who endured a physical attack in the centre of Belgrade in the night between 25 and 26 November 2011³³, was attacked again only a few weeks later, on 11 December 2011 at 6 a.m. – this time near his home.

As I was returning home early in the morning from a night out, I was attacked quite suddenly in my own neighbourhood. I was walking through a passageway and I just heard someone running. I turned around and saw five unknown young men running towards me. They knocked me down quickly and kept kicking me until I started desperately yelling "help!", and then they ran off.

I only saw one guy before they knocked me to the ground, but I could never remember him. I was completely stunned, because everything happened so fast, out of the blue. My entire head is bumps and bruises, and I can't believe this is happening. I don't know if my haircut is too "conspicuous" or this was something organised, cause that's how it seemed to me.

We have to do something, because this isn't normal what is happening. I'm fine in the sense that I'm not bleeding and nothing is broken, but I'm in disbelief that I've been attacked twice in the space of 15 days, this is terrible... I think they would have beaten me to death if I hadn't started screaming for help, because I kept quiet for a whole minute at first in shock, as they beat me, maybe even two minutes. I reached for the phone to call the police, but then I just started yelling so they wouldn't kill me. I don't understand if this is only happening to me, am I being set up, or others too, and why am I provoking anyone so much just because I dye my hair blond?³⁴

Because of an earlier bad experience with the police intervention after being attacked at the Republic Square³⁵ M.P. was not ready to report the new case of attack to the local police station.

32 From the statement of M.P. on the incident, Internal documentation of GSA, 27 November 2011

33 See the description of the previous attack case

34 From the statement of M.P. on the incident, Internal documentation of GSA, 11 December 2011

35 See the description of the previous attack case

2. THREATS ON THE BASIS OF REAL OR ASSUMED SEXUAL ORIENTATION/ GENDER IDENTITY OF THE VICTIM

2.1. THREATS TO R.D. (25) IN THE CENTRE OF NOVI PAZAR

On 10 August 2011 R.D. was walking in the centre of Novi Pazar with his sister. In front of the city administration building, a man, about 30 years old, and a girl passed them by. A few seconds later the man stopped, turned around and loudly ordered R.D. and his sister to stop.

We stopped, but we were seriously confused as to why. Then he approached me, got up in my face and screamed at me: "Mother fucking piece of shit, you people should be chased out of this town! Take a look at yourself, you pussy, dear mother what we let walk around our town!" Confused and scared I replied: "Sorry, but what's the problem?" Then he said angrily and even more loudly: "Fuck you faggot, you woman, look at yourself!"

My sister who was right next to me then began arguing with him. After that he just looked at us again, turned around and walked away as if nothing had happened. I was left in shock, I started trembling and feeling incredible fear, so my sister and I immediately went behind a building so that I could calm down a bit.

I was walking in an ordinary way, I was dressed decently in short pants, sneakers and white T-shirt. I also wore a backpack. The guy who verbally attacked me has a small beard and by the way he was dressed he looked like a wahhabi. None of the passers-by reacted, they just passed by calmly, and this entire incident did not last longer than a minute, but enough to bring me disquiet and fear for my own safety in the next several days.

Out of personal reasons I didn't report the case to the police, and I don't intend to, even though I had support from my friends, but I don't want to, for family reasons.³⁶

2.2. THREATS TO S.A. (45) FROM BELGRADE

On 30 August 2011, S.A. from Belgrade reported to Gay Straight Alliance the threats he received from his neighbours on that day on the basis of his sexual orientation.

I was waiting in line at the store when a woman came in cutting the line and pushing the other customers – she started ordering goods, saying that she had a child outside and she couldn't wait. I reacted, saying that this was not reason enough for her to be so callous and cut the line without asking. She then said angrily to me: "Of course! You would kill all the children, you bald fag!" First I tried to calm her down, but she would not stop, but started threatening that she would "bring two 'muscles' to beat me up".

36 From the statement of R.D. on the incident. Internal documentation of GSA. 20 August 2011

I left the store, but she went after me down the street, accompanied by the woman who had been watching her child in front of the store. She kept threatening me and insulting me the whole way back. I went into my flat shaking all over. The whole time she repeated threateningly: "We're in the same neighbourhood, we'll meet again!"

Ten minutes after I entered my flat, somebody knocked on my window. I came out into the yard where she and her husband waited. The argument then continued with him, and he was pretty aggressive and angry, but controlled himself. During the argument I found out that his wife told him lies how I said a lot of bad things about him. The wife kept insulting me during that time based on my sexual orientation, she yelled how I keep spreading "fag diseases" while they're walking their children there.

The husband asked that I apologise, which I did, but she kept insulting my lifestyle. She threatened that she would blow up my flat, which she characterised as "a rat hole" and said that I was a rat. Then I called the police, but I don't know anything about the identity of people I had this conflict with except that they obviously live somewhere near me!³⁷

According to records received from the Ministry of Interior of Serbia, the case was not reported or recorded at the police.

2.3. ENDANGERING THE SAFETY OF S.Ć. (30) FROM ŠABAC

At the beginning of October 2011 Gay Straight Alliance received a complaint from a friend of S.Ć. from Šabac, saying that in the past week someone had been creating fake Facebook profiles for her friend S.Ć.

In these profiles they wrote that S.Ć. was gay, they left his address and phone numbers for landline and mobile phones. We even noticed that three fake profiles appeared during the course of only one day! He is really upset and he thinks that it might be one of two people with whom he is currently in a fight.³⁸

GSA advised the victim's friend that the victim should immediately report the case to the local police station, and that he should contact GSA to describe the case and the circumstances in more detail. Later, we were informed S.Ć. did not find it necessary to report the case to the police, since the creation of those fake profiles stopped very soon and the existing fake profiles were removed by the Facebook administration.

37 From the statement of S.A. on the incident, Internal documentation of GSA, 30 August 2011

38 From the statement of A.V, a friend of S.Ć., on the incident, Internal documentation of GSA, 3 October 2011

VIII THE RIGHT TO A FAIR TRIAL AND THE RIGHT TO EQUAL PROTECTION OF RIGHTS AND TO A LEGAL REMEDY

Everyone has the right to have an independent, unbiased and legally established court, fairly and within a reasonable time, publicly discuss and decide on their rights and obligations, the merits of the doubt that was the cause for starting the proceedings, as well as the charges against them.³⁹

Everyone has the right to appeal or other legal remedy against the decision which decides on their right, obligation or legally based interest.⁴⁰

In 2009 GSA established the Legal Service which provides legal aid to LGBT people in cases of violence and discrimination on the basis of sexual orientation and gender identity. The Legal Service documents cases, provides legal advice, and if the victim agrees, begins legal proceedings before judicial bodies of Serbia and represents the victims before them.

For three years the Legal Service of GSA has been beginning legal proceedings before courts, prosecutors and the police for the protection of LGBT people in an organised and systematic way.

A research conducted by the Center for Peace and Democracy Development in 2011 showed that almost two thirds of criminal charges filed for human rights violations come from non-governmental organisations, with the greatest number from Gay Straight Alliance and the Committee for Human Rights Leskovac, while only three percent of citizens did so on their own.⁴¹

During 2011 two cases were concluded in which the victims were members of the LGBT population. The case of hate speech against LGBT people on the Internet portal "Press online" received the final decision, and the case of severe discrimination and hate speech towards the LGBT population by Dragan Marković Palma, Mayor of Jagodina, received the first-instance verdict. Both cases resulted in a conviction.

39 The Constitution of the Republic of Serbia, article 32, paragraph 1.

40 The Constitution of the Republic of Serbia, article 36, paragraph 2.

41 "No use reporting an official", B92, 7 October 2011, available at: http://www.b92.net/info/vesti/index.nhn?vvvv=2011&mm=10&dd=07&nav_categoria=12&nav_id=547801

GSA will continue to provide legal aid to victims of human rights violations before judicial and governing bodies of the Republic of Serbia, and furthermore, when all domestic legal remedies have been exhausted, it will represent them before the European Court of Human Rights in Strasbourg or, if necessary, before some of the Committees of the United Nations.

1. GSA LEGAL SERVICE – CONCLUDED CASES

1.1. FINAL DECISION AGAINST THE DAILY NEWSPAPERS "PRESS" FOR HATE SPEECH

In mid-July 2011 the Legal Service of GSA received the first-instance verdict of the Higher Court in Belgrade which upheld the claim of GSA against the daily newspapers "Press" d.o.o. and which established that texts – readers' comments published on 2 July 2009 on the Internet site Press online constitute hate speech towards the LGBT population, and that by allowing and enabling said comments to be placed on the site, Press acted discriminatorily against this population.⁴²

On the basis of the Anti-Discrimination Act and the Public Information Act, the Legal Service of GSA filed a lawsuit against the daily newspapers "Press" on 14 July 2009, because this media company on its Internet publication Press online allowed the publishing of readers' comments on the article "I will be a gay icon" which (comments) contained hate speech towards the LGBT population. During the proceedings, the plaintiff Boris Milićević and the second respondent Nebojša Joksimović, web editor of Press, gave their statements, and all submitted written evidence was read. The first instance proceedings were concluded on 22 February 2011.

At the end of 2011, the Court of Appeal in Belgrade delivered the second-instance verdict in this case, dismissing as unsubstantiated the complaint of the appellants and upholding the first-instance verdict of the Higher Court in Belgrade, thereby making it final.

Most of the controversial comments contained the cheapest insults, calls for murder, slaughter, threats that they would attack life and property of LGBT people. The clarification of the verdict said that such comments and opinions incite hatred and violence towards members of LGBT population and their discrimination, thus they constitute hate speech. The defendant (Press) has, by publishing such comments, violated the prohibition of expressing ideas, information and opinions which constitute hate speech, in this case towards LGBT people, in public media, as expressed by Article 11 of the Anti-Discrimination Act and Article 38 of the Public Information Act.

The court also declared a temporary measure based on Article 44 of the Anti-Discrimination Act by which it forbade the publishing of said comments on Press' website. Furthermore, Press was obligated to "publish this verdict in its entirety, without any comments and without delay, at their own expense, not later than in the second issue

⁴² See Appendix 1 – the text of the first-instance verdict against the daily newspapers "Press"

of the daily newspaper from the day of the final decision“. The court ordered Press to pay court costs to Gay Straight Alliance, but it dismissed the claim for damages.

1.2. FIRST-INSTANCE VERDICT AGAINST DRAGAN MARKOVIĆ PALMA FOR SEVERE DISCRIMINATION OF THE LGBT POPULATION

At the beginning of November 2011, the Legal Service of GSA received the first-instance verdict of the First Basic Court in Belgrade for severe form of discrimination of the LGBT population in the case against Dragan Marković Palma, Mayor of Jagodina and president of the parliamentary political party One Serbia (Jedinstvena Srbija).⁴³

The First Basic Court upheld the claim on the basis of the Anti-Discrimination Act, which the Legal Service of GSA filed against Marković on 22 August 2011, and established that Dragan Marković Palma committed the severe form of discrimination based on sexual orientation. In addition, the court forbade Marković to repeat the said discrimination and ordered him to cover GSA's court costs.

On 22 August 2011, the Legal Service of GSA filed a claim against Marković for his statement to the media on 15 August 2011, when he said “the position of One Serbia and my personal position is that – we are against every gathering where homosexuals demonstrate on the streets of Belgrade and wish to present as normal something that is a disease“.

Articles 11, 12, 13 and 21 of the Anti-Discrimination Act, which form the basis of the verdict, refer to hate speech, harassment and humiliating behaviour, and primarily to the severe form of discrimination. Clarification of the verdict among other things says that: “Article 13 of the Anti-Discrimination Act stipulates that the severe form of discrimination is inciting and encouraging inequality, hatred and bigotry on the basis of sexual orientation, which constitutes severe form of discrimination especially if done through public media, and more specifically in this case, a personal quality, that is, sexual orientation, was by the defendant (Marković) portrayed as a disease and as something abnormal, and this was done through public media, thus committing severe discrimination“.

GSA considers this case of strategic importance primarily because of the fact that this was the first time in Serbia that a politician received a verdict for severe discrimination and hate speech against the LGBT population, as well as for misusing the most common social prejudice and falsehood about LGBT people that they were ill. Such statements by politicians and officials, most especially those who are often in the public eye like Dragan Marković Palma, must be severely sanctioned by the law, because politicians, whether in government or in opposition, carry the greatest responsibility for spreading tolerance and building a democratic society, the culture of non-violence and the respect of basic human rights.

Even though the defendant Marković filed an appeal after this first-instance verdict

43 See Appendix 2 – the text of the first-instance verdict against Dragan Marković Palma

was given, the court has not accepted the appeal yet, and so the verdict establishing discriminatory behaviour of the defendant is still in effect. In mid-May 2012, the defendant will give a statement before the court on the facts stated in the appeal.

1.3 CASES CONCLUDED BY THE END OF 2010

INJURED PARTY LAZAR PAVLOVIĆ

The trial was conducted before the First Basic Court in Belgrade, under the number 9-K-2163/10. From 17 to 21 April 2008, the offender B.P. from Rušanj sent a number of threatening SMS messages on the mobile phone of the injured party Lazar Pavlović. The messages contained insults, threats on the life and body, all because of the sexual orientation of the injured party. After filing criminal charges in June 2008, and several delayed hearings, the proceedings were concluded on 12 November 2010 and the offender received the final sentence of three months in prison, with two years of probation.

CRIMINAL CHARGES FOR THREATS TO R.B. VIA FACEBOOK

On 24 June 2009, underaged person N.A. threatened the injured party R.B. via electronic mail on the social network Facebook saying they would attack R.B.'s life and body for perceived sexual orientation, which the offender thought homosexual, considering the contents of the threats. Criminal charges were filed on 17 July 2009, to the District Public Prosecutor, department for minors, for criminal acts Endangering safety and Racial and other discrimination. After the inquest and the trial, N.A. received a court admonition for the committed act on 13 July 2010.

DISCRIMINATION OF B.M. FROM ZRENJANIN

B.M. from Zrenjanin addressed himself to GSA on 9 October 2010, because an employee of the Police Directorate Zrenjanin, after discovering his sexual orientation in the course of performing her official duty, called his relatives and informed them about B.M.'s sexual orientation, without receiving or asking for his permission. B.M. had domestic problems with the members of his family due to such behaviour of the police employee. GSA submitted a remonstrance to the chief of the PD Zrenjanin and to the Sector of Police Internal Control, but after the investigation, the case was closed with the finding that there was no liability on the part of their employee.

DOMESTIC VIOLENCE BECAUSE OF M.D.'S LESBIAN ORIENTATION

In September 2010 M.D. addressed herself to GSA, because she underwent violence by her husband due to her same-sex sexual orientation. The Legal Service of GSA helped her to write a request to the Centre for Social Work, which was authorised to refer people to the Safe House.

2. LEGAL SERVICE OF GSA – CASES IN PROGRESS, PROCESSED DURING 2011

2.1. DISCRIMINATION AND DAMAGES LAWSUIT AGAINST DARIO KOVAČEVIĆ FROM VRŠAC

On 4 April 2011, the Legal Service of GSA filed a lawsuit against Dario Kovačević from Vršac for determining discrimination and damages. On several occasions during 2010, the accused threatened the injured party M.A., beat him and insulted him for his same-sex sexual orientation. The civil proceedings for determining discrimination and damages were filed under the number P – 333/2011, and they were conducted before the Basic Court in Vršac.

The lawsuit was dismissed in the verdict of the first instance. Appellate proceedings are in progress.

2.2. CRIMINAL TRIAL FOR THE CRIMINAL ACT ABUSE AND TORTURE AGAINST DARIO KOVAČEVIĆ FROM VRŠAC

On 6 April 2011, the Legal Service of GSA filed criminal charges against Dario Kovačević from Vršac for the criminal act Abuse and torture. On several occasions during 2010, the accused threatened the injured party M.A., beat him and insulted him for his same-sex sexual orientation. The criminal trial is being conducted before the Basic Court in Vršac.

2.3. DISCRIMINATION LAWSUIT AGAINST NEBOJŠA BAKAREC

On 20 September 2011, the Legal Service of GSA filed a lawsuit for determining discrimination and hate speech against Nebojša Bakarec, assemblyman of the Democratic Party of Serbia (DSS) in the Assembly of the City of Belgrade, because the accused claimed in his text for the website vidovdan.org that homosexuality was a mental disorder and that LGBT people therefore required professional help. The civil proceedings for determining discrimination are being conducted before the First Basic Court in Belgrade, filed under the number 29 P – 20182/11. The first hearing was held on 22 November 2011, and so far both parties were heard and all evidence was presented, thereby concluding the main argument.

The first-instance verdict is expected.

2.4. CRIMINAL CHARGES AGAINST NEBOJŠA BAKAREC

On 29 September 2011, the Legal Service of GSA filed criminal charges against Nebojša Bakarec, assemblyman of the Democratic Party of Serbia (DSS) in the Assembly of the City of Belgrade, to the First Basic Public Prosecutor in Belgrade, for criminal acts Violation of equality and Racial and other discrimination. The accused claimed in his text for the website vidovdan.org that homosexuality was a mental disorder and that LGBT people therefore required professional help.

So far there has been no notification on the status of the case or any undertaken court actions.

2.5. CRIMINAL CHARGES AGAINST DRAGAN MARKOVIĆ PALMA

On 22 August 2011, the Legal Service of GSA filed criminal charges against Dragan Marković Palma, Mayor of Jagodina and president of the parliamentary political party One Serbia (Jedinstvena Srbija), to the Basic Public Prosecutor in Jagodina, for committing the criminal acts Violation of equality (Article 128 of the Criminal Code - CC), and Racial and other discrimination (Article 387 CC). On 15 August 2011, the accused gave a statement for the press saying once again that homosexuality was a disease, thereby committing the acts for which he is on trial. The criminal charges were amended on 7 September 2011, and the case is filed under the number K tr – 591/11.

This trial has not yet commenced.

2.6. LABOUR DISPUTE AGAINST THE COMPANY “DENEZA M“ FROM BELGRADE

On 25 October 2011, the Legal Service of GSA began proceedings in the labour dispute before the Labour Inspection against the company “Deneza M“ to annul the unbased decision of dismissal given to the injured party V.L., who was previously mentally and physically mistreated by his superiors and other colleagues for his same-sex sexual orientation. The Labour Inspection went to the accused in official capacity. The decision of the Inspection on restoring V.L. to work is expected.

The preliminary hearing has been held, and the next hearing is scheduled for 31 May 2012.

2.7. CRIMINAL CHARGE AGAINST N.N. PERSON FOR THREATS ON THE INTERNET

On 20 June 2011, the Legal Service of GSA filed a criminal charge to the First Basic Prosecutor in Belgrade for the criminal act Racial and other discrimination, against an N.N. person for threats and insults made on the official YouTube channel of Gay Straight Alliance.

There have not yet been any investigative or other court actions in this case.

3. LEGAL SERVICE OF GSA – CASES IN PROGRESS, PROCESSED BY THE END OF 2010

3.1. TRIAL FOR THE MURDER OF TRANSSEXUAL MINJA KOČIŠ

After the transsexual sex worker Minja Kočiš (39, born Mihalj) was killed in her house on Vračar in Belgrade on 8 January 2009, the Belgrade police arrested Ivica Mihajlović (30) and Novica Radisavljević (36) on 21 January 2009, under the suspicion that they killed her. The Higher Public Prosecutor in Belgrade filed charges against these two men in mid-July 2009 for the criminal act Murder in the first degree.⁴⁴

From the beginning of the court trial, Aleksandar Olenik, lawyer from the Legal Service of GSA, has been representing the mother of the victim as a private plaintiff who joined the criminal prosecution, and Gay Straight Alliance has closely followed the entire course of the trial against the men accused of murdering Minja Kočiš.

The Higher Court in Belgrade, the panel presided by judge Vladimir Mesarović, reached a decision of the first instance on 14 July 2011. They found **Ivica Mihajlović** guilty and sentenced him to **35 years** in prison for committing the criminal act Murder in the first degree from art. 114 par. 1 clause 4 of the Criminal Code (CC), and **Novica Radisavljević** was convicted to **30 years** in prison for committing the criminal act Murder in the first degree by incitement from art. 114 par. 1 clause 4 of the CC regarding art. 34 of the CC.

The offenders appealed the first-instance verdict. Their appeal was upheld, and so the case has been returned to the court of the first instance for repeat deliberation.

3.2. LAWSUIT FOR DAMAGES AGAINST JP SAVA CENTRE

On 24 April 2009, GSA filed a lawsuit against JP Sava Centre for consequential damages due to injury to honour and reputation, the violation of individual right and equality, which were the consequence of insults that the managers of this public company stated at the expense of LGBT people and of prohibiting them to use a public facility simply because the user would be an LGBT rights organisation. The management of Sava Centre prohibited GSA from holding a press conference on 26 February 2009, which was supposed to be the presentation of the report on the status of human rights of LGBT people in Serbia for 2008. With the lawsuit, a proposal was filed for temporary injunction prohibiting the employees of the defending public company from insulting the plaintiffs during the course of court proceedings. No court action was undertaken in this case during 2011.

⁴⁴ Report on the status of human rights of GLBT people in Serbia for 2009 “No retreat, no surrender”. III The Right to Life. Murder of transsexual Minja Kočiš. p. 17: GSA. Belgrade

3.3. CRIMINAL PROCEEDINGS AGAINST THE MANAGERS OF SAVA CENTRE

In the period between 22 and 24 February 2009, the accused Dragan Vučićević, director of JP Sava Centre, and Rade Hinić, vice-director for congress affairs of JP Sava Centre, first prohibited GSA from holding a press conference, where GSA wanted to present their annual report on the status of human rights of LGBT people in Serbia, and then the accused insulted LGBT people in the media because of their sexual orientation. On 7 April 2009, GSA filed criminal charges against the accused to the Fourth Municipal Public Prosecutor, which were dismissed by the Prosecutor after taking statements from the accused, the injured party and witnesses in the police, citing no basis for starting criminal proceedings. GSA was informed of this decision on 8 June 2009. After the dismissal of charges, on 16 June 2009, GSA submitted the Request for conducting a criminal investigation against the said managers of JP Sava Centre. So far, according to the information available to the Legal Service of GSA, no investigative action has been undertaken.

3.4. CRIMINAL CHARGES TO THE THIRD MUNICIPAL PUBLIC PROSECUTOR AGAINST N.N. PERSONS FOR FACEBOOK CONTENT

On 26 June 2009, GSA filed criminal charges to the Third Municipal Public Prosecutor against several N.N. persons who represented themselves as: Jovan Bilbija from Belgrade, Božidar Karalić from Sremska Mitrovica and Andrija Petrović, who created and administrated a Facebook group named "Stop the faggots!!! Gay parade never in Serbia!!!" where they allowed and encouraged calls to commit the most serious criminal acts against LGBT people, coupled with insults, humiliation and discrimination of LGBT people.

After almost two years of not conducting any investigative actions since the charges were filed, the investigative judge finally heard the accused and the plaintiffs during 2011, and subsequently dismissed the charges. In March 2012, GSA submitted an appeal to the Court of Appeals in Belgrade, requesting annulment of the decision to dismiss charges and the return of the case into the criminal procedure.

3.5. DETERMINING THE IDENTITY OF PERSON(S) WHO THREATENED BORIS MILIĆEVIĆ

In the period from 6 February to 8 December 2008, N.N. person or persons threatened and insulted several times via e-mail the then president of GSA Boris Milićević for his sexual orientation. No court action was undertaken during 2011 in this case.

3.6. CRIMINAL CHARGES FOR FACEBOOK CONTENT AGAINST MARIO SARKEZI

On 1 June 2009, criminal charges were filed to the Fourth Municipal Public Prosecutor against Mario Sarkezi from Zemun. who created and administrated the Facebook

group called “Busting up the gay parade on 23 August”, where he allowed and encouraged calls to commit the most serious criminal acts against LGBT people, coupled with insults, humiliation and discrimination of LGBT people. After court restructuring, the case was filed in the First Basic Court under 3-Ki-7284/10. No court action was undertaken in this case during 2011, and the case is still with the investigative judge, according to the information available to the Legal Service of GSA.

3.7. DISCRIMINATION OF M.D.

For discriminating, insulting and harrasing teacher M.D. by the principal of the school where M.D. worked, on 11 March 2010, GSA filed a lawsuit for prohibition of discrimination and reparation of damages, to the Basic Court in Novi Sad. So far, several hearings have been held, and the plaintiff, the principal and several witnesses have given their statements.

The next hearing and expert witnesses are scheduled for 7 June 2012.

3.8. INSULTS AND COERCION OF BORIS MILIĆEVIĆ

On 21 April 2010, several persons spat on, insulted and harrassed Boris Milićević, former president of GSA, near his place of residence in Belgrade. On 23 April 2010, criminal charges were filed against several N.N. persons. So far no notice has been received from the authorities regarding the course of the investigation.

3.9. CASE STORMFRONT

On an unspecified day of 2010, N.N. persons under pseudonims created a forum on the website “Stormfront” where, in the period from 4 July 2010 to 1 August 2010, they published, incited, aided, encouraged and allowed to be published, along with a list of people who publicly supported the Pride Parade, several texts containing serious insults and hate speech against the LGBT population. The Legal Service of GSA filed criminal charges against N.N. perpetrators in August 2010, but so far no information has been received from the prosecutor’s office regarding the course of the case.

3.10. VIOLENCE AGAINST D.P. AT A DISCO CLUB IN BEČEJ

D.P. from Bečej addressed himself to the Legal Service of GSA on 18 September 2010, because he was beaten on account of his sexual orientation by an unknown person on 17 September 2010 at the disco club “Stage” on the Green Street in Bečej. The Legal Service of GSA filed criminal charges against an N.N. person to the Higher Public Prosecutor in Novi Sad. So far there has been no information on the status of the case.

3.11. DISC JOCKEY Ž.S. BEATEN

In the night between 25 and 26 September 2010 Ž.S. played music at the club Apart-man in Belgrade. After leaving the club, he was beaten by several unknown people. The Legal Service of GSA drafted and submitted criminal charges to the relevant prosecutor at the beginning of October 2010, but so far no information on the case has been received.

4. OTHER COURT CASES

4.1. FIRST-INSTANCE VERDICT FOR MLADEN OBRADOVIĆ AND OTHERS FOR ORGANISING VIOLENCE AT THE 2010 PRIDE PARADE

The Higher Court in Belgrade, the panel with the presiding judge Danko Laušević, gave their verdict on 20 April 2011 – Mladen Obradović, leader of “Obraz” and others were found guilty for organising violence during the Pride Parade on 10 October 2010. Mladen Obradović was sentenced to two years in prison, Jelena Obradović to one year of home detention, Krsto Milovanović and Damir Grbić were sentenced to one and a half year in prison, while a one-year prison sentence was given to Mladen Milisavac, Goran Andrejev and Aleksandar Živković. Miloš Popović Srđan Savović, Marko Lazarević, Nikola Vidović and Igor Marinković were sentenced to nine months in prison.

The time spent in jail was included in the duration of the prison sentence for all of them, and so they were all released by the time when the judges’ decision became final. All the perpetrators appealed the decision, and the Higher Public Prosecutor also filed an appeal. The decision of the Court of Appeal in Belgrade is forthcoming on their appeals.

Due to violent behaviour, 124 people were detained by the police on the 2010 Pride Parade. Charges were filed against 111 people, and 36 were convicted. 11 cases were dismissed.⁴⁵

4.2. TRIAL AGAINST MLADEN OBRADOVIĆ FOR DISCRIMINATION BEFORE THE 2009 PRIDE PARADE

On 30 October 2009 the First Municipal Prosecutor filed charges against Mladen Obradović, leader of right-wing extremist organisation “Obraz” for presenting and spreading ideas that propagate discrimination based on sexual orientation in September 2009. He organised the drawing of graffiti with threatening and insulting content, and created propaganda material on his computer – notices, wallpapers, flyers, stickers and public calls regarding the participants of the 2009 Pride Parade.

45 From the publication: “Application of fair trial standards in the Serbian judicial system 2012”, the Youth Initiative for Human Rights

Lazar Pavlović, president of GSA, gave testimony on 3 October 2011 in this trial. He stated in his testimony that in 2009 Obradović talked to several Belgrade media which published his announcements that Obraz would prevent the upcoming Parade “at any cost”. In addition, Obraz talked about the “parade of shame” and “depravity”, and in the section “Serbian enemies” on Obraz website they said that “there will be no mercy” and there was talk of annihilating homosexuality as well as criminal responsibility of the members of the LGBT population. Pavlović commented on that saying that homosexuality was decriminalised in Serbia in 1994, and the Serbian Physicians’ Association in a letter to Labris in 2008 stated that homosexuality was not a disease. Regarding the graffiti which appeared right before the 2009 Pride Parade, and the slogan of Obraz “We are waiting for you”, Pavlović said they were nothing less than calls for violence, discrimination and inciting people to disenable the freedom of assembly.

At the prosecutor’s question whether he understood the phrase “We are waiting for you” as a call for repentance, which is the meaning Obradović gave at an earlier hearing, Pavlović replied that he has nothing to be repentant for and that he intended to express his opinion and his protest at the Parade, which is a right guaranteed by the Constitution of Serbia.

The trial was concluded on 27 March 2012 with the first-instance verdict sentencing Mladen Obradović to ten months in prison.⁴⁶

4.3. TRIAL AGAINST MIŠA VACIĆ FOR DISCRIMINATION BEFORE THE 2009 PRIDE PARADE

The First Municipal Prosecutor filed charges on 30 October 2009 against Miša Vacić, one of the leaders of “SNP 1389” because in September 2009 he spread discriminatory ideas against the LGBT population, asked newspaper editors to provide him with photographs of the Parade participants, and in other ways obstructed the organisation of the 2009 Pride Parade. He was also charged for possession of illegal weapons.

After several postponed hearings during 2011, finally a hearing was held on 5 September, when Lazar Pavlović, president of GSA, testified. The testimony mostly referred to Vacić’s public appearances and statements during the preparations for the 2009 Pride Parade, especially those where he claimed that homosexuality was a disease, and to the obstruction of the 2009 Pride Parade by SNP 1389. Pavlović stated that all of that made him feel offended, frightened and in danger. He said that those statements and activities of the 1389 movement in that period affected other people who wanted to participate in the Parade as well and made them afraid to leave their home for days.

Lazar Pavlović also testified about the open call to the media which SNP 1389 made in September 2009. In this call, SNP 1389 offered the Serbian media to buy all photographs of the participants at the upcoming Parade in order to publish them publicly later. This call, as well as other calls to prevent the Parade in which SNP 1389 said that this was an “assembly of sexually deviant people”, was understood by the LGBT popu-

46 “10 months of prison for Mladen Obradović”, available at: <http://www.rts.rs/page/stories/sr/storv/135/Hronika/1071092/Mladenu+Obradovi%C4%87u+10+meseci+zatvora+.html>

lation, and the wider public, as a call to a lynch mob. Pavlović compared this situation to Uganda, where a while ago the media published photographs of their best-known gay activist (with warnings for people to stay away from him) who was later murdered.

In addition, Pavlović gave to the court the official statement of the Ministry of Health of the Republic of Serbia that homosexuality is not a disease, as well Miša Vacić's Facebook profile picture right before the 2009 Pride Parade which showed the following: "Blood will flow in Belgrade, there will be no gay parade".

The proceedings are not yet concluded.

4.4. CASES AGAINST SEVERAL PEOPLE WHO THREATENED THE 2011 PRIDE PARADE PARTICIPANTS VIA FACEBOOK

In mid-September 2011, Lazar Pavlović, president of Gay Straight Alliance, and two representatives of the Belgrade Pride Parade organisation filed criminal charges to the police against several people who, during August and September, insulted and threatened with beatings and death the participants of the Pride Parade which was scheduled for 2 October 2011.

So far, investigative proceedings have been conducted against several perpetrators.

Simo Vladičić was the first to be fully processed for threatening members of the LGBT population via the social network "Facebook". He was convicted (first instance) at the end of February 2012 to three months in prison, with two-year probation, for the criminal act Endangering general safety by sending threatening messages on the Internet.

4.5. CRIMINAL CHARGES FOR THREATS VIA E-MAIL TO A GAY ACTIVIST

Predrag Azdejković, president of the Gay Lesbian Info Centre, received a threatening message via e-mail from an unknown person on 9 June 2011. He addressed himself to the Lawyers' Committee for Human Rights (YUCOM), which filed criminal charges to the relevant prosecutor. The investigative proceedings were conducted, but there have not been any other court actions.

4.6. CASES TO BAN RIGHT-WING EXTREMIST ORGANISATIONS "OBRAZ", "SNP 1389" AND "NAŠI" BEFORE THE CONSTITUTIONAL COURT OF SERBIA

Republic Prosecutor submitted an initiative at the end of September 2009 to the Constitutional Court of Serbia, seeking to prohibit the work and activities of right-wing extremist organisations "Otačastveni pokret Obraz" and "SNP 1389" because of actions directed at violent destruction of constitutional order, violation of guaranteed human and minority rights of LGBT people and other minority groups, and inciting racial, national and religious hatred. The Prosecutor noted that organisations "Obraz" and "SNP 1389" caused numerous incidents, in which their members in various ways

violated human rights guaranteed by the Constitution.

On 14 December 2011, there was a public debate in the Constitutional Court of Serbia regarding the proposal to ban "Obraz". The public debate was attended by the representatives of the Prosecutor, "Obraz", Ministry of Justice, Ombudsman of the Republic of Serbia and representatives of the expert community. The Constitutional Court gave the opposing sides additional 15 days to respond to disputed constitutional questions and supply new evidence of importance for making the decision regarding the proposal of the Prosecutor to ban "Otačestveni pokret Obraz".⁴⁷

On 22 June 2011, a public debate was held in the Constitutional Court regarding the proposal to ban "Movement 1389", but subsequently, on 18 October 2011, the Prosecutor retracted that proposal and submitted a new request to ban the associations "SNP 1389" and "Naši" from Arandelovac. On 5 November 2011, the Constitutional Court announced that they dismissed the previous case and started new proceedings on the Prosecutor's proposal to ban these two organisations.⁴⁸

4.7. BANNING THE 2009 PRIDE PARADE DECLARED UNCONSTITUTIONAL

At the end of December 2011, the Constitutional Court of Serbia upheld the constitutional appeal submitted by the Belgrade Center for Human Rights in the name of the 2009 Pride Parade organising committee. They appealed the decision of the Police Directorate of the Ministry of Interior of Serbia to hold this assembly on Ušće or on the plateau in front of the Palace of Serbia, instead of holding it in the centre of Belgrade. The Constitutional Court determined that by the decision of the Police Directorate of the 19 September 2009, the following rights of the appellants, guaranteed by the Constitution of Serbia, were violated: the right to a free assembly and the right to a legal remedy.

Five members of the 2009 Pride Parade Organising Committee filed a constitutional appeal on 19 October 2009, contesting the decision of the Police Directorate to move the assembly from the plateau in front of the Faculty of Philosophy to another location "due to high security risks".

The Pride Parade with the slogan "It's time for equality" was supposed to be held on 20 September 2009, but the organisers withdrew, not satisfied with the police decision, which was given to them only 12 hours before the assembly was supposed to take place. The constitutional appeal of the organisers said that state bodies did not do everything in their power to stop the threats and violence against the Pride Parade participants and to provide conditions for exercising the basic constitutional right to a free public assembly.⁴⁹

47 "Constitutional Court seeks more evidence for banning Obraz", Blic, 14 December 2011, available at: <http://www.blic.rs/Vesti/Hronika/295552/Odrzana-javna-rasprava-o-zabrani-Obraza>

48 "Constitutional Court public debate on banning Obraz", Press online, 14 December 2011, available at: http://pressonline.rs/sr/vesti/vesti_dana/story/192518/U+Ustavnom+sudu+javna-rasprava+o+predlogu+zabrane+%22Obraza%22.html

49 "Appeal of LGBT organisations upheld: Banning the Pride Parade by Serbian Ministry of Interior unconstitutional", 23 December 2011, available at: <http://www.atvbl.com/index.php/2011/12/23/ustavni-sud-srbiie-usvoiena-zalba-labt-organizacije>

IX THE FREEDOM OF ASSEMBLY AND THE FREEDOM OF ASSOCIATION

Peaceful assembly of citizens is autonomous. Assembly in closed space is not subject to permission, or register. Assemblies, demonstrations, and other gatherings of citizens in open space are registered with the state bodies, in keeping with the law. Freedom of assembly may be restricted by law only if it is necessary for the protection of public health, moral, the rights of others or the security of the Republic of Serbia.⁵⁰

The freedom of political, syndical and every other association and the right to stay outside any association are guaranteed.⁵¹

PRIDE PARADE 2011

LEGAL FRAMEWORK FOR HOLDING THE PRIDE PARADE

With regard to the right of citizens to assemble, which is one of the fundamental human rights according to international conventions that have also been signed by our country, this right ought not to be contested in Serbia by any side, because there are legal prerequisites, i.e. there is a legal framework for enforcing and exercising the right to freely assemble.

The Constitution of the Republic of Serbia in Article 54 guarantees the freedom of peaceful assembly. The freedom of assembly under the Constitution may be restricted by law only if it is necessary due to protection of public health, moral, the rights of others, or the security of the Republic of Serbia (Art. 54 of the Constitution).

50 The Constitution of the Republic of Serbia, Article 54.

51 The Constitution of the Republic of Serbia. Article 55. paragraph 1.

All these provisions defined in the Constitution of the Republic of Serbia are also found in the European Convention for the Protection of Human Rights and Fundamental Freedoms,⁵² in which the freedom of assembly and association is also defined as one of the fundamental human rights and which anticipates similar restrictions regarding the exercise of these rights.

Another constitutional provision relevant for holding the Pride Parade pertains to the prohibition of any discrimination, direct or indirect, on any grounds (Art. 21 of the Constitution), as well as a separate Anti-Discrimination Act of the Republic of Serbia that was adopted in March 2009.

Among the laws which regulate the right to assembly, the most important one is certainly the Public Assembly Act of the Republic of Serbia,⁵³ which defines the concept of public assembly and more closely regulates the rights and responsibilities of the convener of the assembly and the relevant bodies, as well as the manner of registering and banning an assembly, the complaint procedure and the penal provisions. Owing to some of the discussions present in the public since 2009 regarding the organising of a Pride Parade, it is necessary to point out some provisions from this law:

This law anticipates only two possibilities concerning (not) holding a public assembly - the assembly will either be held according to the contents of the application for holding an assembly which is filed by the convener (at least 48 hours before the assembly) or the assembly will be banned by the authorities, i.e. the Ministry of Interior (MUP) (at the latest 12 hours before the assembly), which means that there is no legal basis for possibly moving the assembly to another location or changing any other details of the application, unless initiated by the convener of the assembly;

The authorities may temporarily ban a public assembly which is “directed at forcibly changing the constitutional order, violating territorial integrity and independence of the Republic of Serbia, violating constitutional rights and freedoms of people and citizens, causing and inciting national, racial and religious intolerance and hatred” (Article 9), or an assembly can be banned “in order to prevent obstruction of public traffic, endangering public health, public moral or safety of people and property” (Article 11).

For a fuller insight into the legal framework for holding a Pride Parade or any other assembly, it is necessary to point out the deficiencies of the existing Public Assembly Act. Namely, this law was adopted as far back as 1992 (whereas, for example, homosexuality in Serbia was decriminalized in 1994, and so we may claim with some certainty that the lawmakers did not have in mind assemblies such as Pride Parades), and apart from certain minor corrections, this law has not been fundamentally altered since then, making it obsolescent in many segments.

Last year (in 2010) the then-existing Ministry for Human and Minority Rights in cooperation with the Organization for Security and Co-operation in Europe (OSCE) formed the Working Group for the Advancement of Freedom of Assembly (the working group also included representatives from Ministry of Interior, Ministry for Public Administra-

52 http://www.echr.coe.int/NR/rdonlyres/EA13181C-D74A-47F9-A4E5-8A3AF5092938/0/BIH_CONV.pdf

53 http://www.praagraf.rs/propisi/zakon_o_okupljanju_gradjana.html

tion and Local Self-Government, Ministry of Labour and Social Policy, the judiciary, Belgrade Centre for Human Rights, Gay Straight Alliance and Women in Black), whose purpose was none other than to analyse the legal framework for the right to freely assemble in the Republic of Serbia.

Based on the Joint Opinion on the Public Assembly Act of the Republic of Serbia by OSCE Office for Democratic Institutions and Human Rights (ODIHR) and Venice Commission,⁵⁴ this Working Group officially made a number of recommendations for improving the legislature for freedom of assembly in Serbia, and one of the conclusions of the Working Group was the following: “The existing Public Assembly Act does not correspond to the demands of a democratic society and is not in keeping with international standards. Working Group deems it necessary to create a new law on freedom of assembly and to adjust its provisions with the Constitution of the Republic of Serbia and adopted international documents”.

Even though the official proposer of the new law on freedom of assembly – Ministry of Interior, which participated in the Working Group – put in its workplan for 2011 the drafting of the new act, the Government of the Republic of Serbia has not yet received a bill concerning freedom of assembly by this ministry.

However, regardless of evident deficiencies of the existing Public Assembly Act, from the above-mentioned legislature (starting primarily from the Constitution) it may be concluded that the legal framework does exist for exercising the right to freely assemble and to organise peaceful non-violent assemblies, including a Pride Parade.

Therefore, the most common argument for holding a Pride Parade, repeatedly mentioned in the public for the past few years and which defends the expediency of this event, is of the legal nature, derived from and referring to the existing legal framework. However, bearing in mind that identical legislature existed in 2009, 2010, and 2011, several questions must be posed: what are the differences which evidently exist in the past three years with regard to holding the Parade, what are the real obstacles to this event, and are the Constitution and the Law sufficient arguments in Serbia?

SOCIAL-POLITICAL CONTEXT; ATTITUDE OF POLITICIANS AND INSTITUTIONS TOWARDS THE PRIDE PARADE

Even though the National Assembly of the Republic of Serbia adopted in this convocation several hundreds of laws and legal acts, primarily motivated by the need to adjust the Serbian legislature to the European Union (EU) standards, their implementation remains a chronic problem in Serbia, and this also pertains to the laws that deal with human rights and the rights of LGBT people. Unfortunately, Serbia is not a country where political will is necessary just for adopting laws, but, paradoxically, for their implementation, as well.

There is no accepted definition of ‘political will’, but it may perhaps be best identified as “the commitment of the participants in a political process to undertake actions for

54 <http://www.osce.org/serbia/73335>

the purpose of achieving goals and to provide the sustainability of these actions over time“. If we apply this to the case of the Pride Parade and the attitude of politicians and institutions towards it, then we can say that at one point political will was indeed formed to hold this event (in 2010), but that it was not strong enough to overcome all challenges and provide the conditions for it to be held each successive year.

Some of the reasons that led to this could be found in comparing the political contexts in 2010 and in 2011, and the differences which evidently exist and which are primarily related to the escalation of the Kosovo situation which called into question the Serbian candidacy for EU membership, and to the early entrance of politicians into the election campaign, since speculations about preterm elections started already in the first half of the year. With the evident absence of strategy on the part of the Parade organisers, and with the absence of adequate public pressure, since the Parade is a very unpopular event in Serbia, the political support visibly dwindled and the situation in this sense resembled more the organisation of the 2009 Parade than the 2010 Parade.

The support to the 2010 Parade was the official position of a large number of political parties, while in 2011 there were very different tones and positions even within the same party. Furthermore, in contrast with 2010 when GSA informed the public through press releases on every meeting GSA held with political parties and institutions, the process of organising the 2011 Parade was not transparent enough and there is no accurate data available to the public regarding whom the organisers met. GSA did not manage to receive any information concerning this, even from the 2011 Parade organisers. (An official request was sent, but the answer was that the Managing Board of the organisation “Belgrade Pride Parade“ must allegedly decide on that). GSA was also not able to discover what the parties’ positions on the subject of Pride Parade were at these meetings. In the table below (Table 1.) there is a comparison of the parties’ positions from 2010 and 2011 which was compiled based on media reports from 2011. The table shows a rough division, and it should be noted that we did not consider the reasons of political parties and party officials which were against the Parade (whether it was the security, or the ‘wrong’ political moment, or something else), and for some it is also shown whether or not they were willing to meet with the organisers.

(FOOTNOTES FOR THE FOLLOWING TABLE 1)

1 http://www.b92.net/info/intervju/index.php?yyyy=2011&nav_id=537290

2 http://pressonline.rs/sr/vesti/vesti_dana/story/171998/Policija+protiv+Parade+ponosa.html

3 http://www.pressonline.rs/sr/vesti/vesti_dana/story/172187/SNS%3A+U+C4%8De%C5%A1%C4%87e+u+%22Paradi+ponosa%22+li%C4%8Dna+stvar.html

4 <http://www.novimagazin.rs/vesti/dinkic-protiv-parade-ponosa-ali-nema-nista-protiv>

5 <http://sps.org.rs/2011/09/24/bilo-bi-bolje-da-se-parada-ponosa-ne-odr%C5%BEi/>

TABLE 1.

POLITICAL PARTY	2010	2011
Democratic party (DS)	support the Parade	"unchanged position from last year" (Jelena Trivan ¹ , vicepresident of DS)
Liberal democratic party (LDP)	support the Parade	support the Parade
Social democratic union (SDU)	support the Parade	support the Parade
Socialdemocratic party of Serbia (SDP)	support the Parade	against the Parade (Rasim Ljajić ² , president of SDP)
Serbian renewal movement (SPO)	support the Parade	unknown
Serbian progressive party (SNS)	Parade is "the personal choice of every citizen"	Parade is "the personal choice of every citizen" (Zorana Mihajlović ³ , SNS official)
League of Socialdemocrats of Vojvodina (LSV)	support the Parade	support the Parade
Alliance of Vojvodina Hungarians (SVM)	support the Parade	against the Parade
G17+	support the Parade	against the Parade (Mladen Dinkić ⁴ , president of G17+); Željko Ivanji, MP, supported the Parade
Serbian radical party (SRS)	dialogue invitation accepted; against the Parade	meeting invitation refused; against the Parade
Socialist party of Serbia (SPS)	support the Parade	"it would be better not to hold the Parade" (Ivica Dačić ⁵ , president of SPS)
Democratic party of Serbia (DSS)	dialogue invitation refused; no official position	meeting invitation refused; no official position
New Serbia (NS)	dialogue invitation refused; against the Parade; public appeal to restrain from violence on the day of the Parade	meeting invitation refused; against the Parade; public appeal to restrain from violence on the day of the Parade

Judging from public appearances and statements of its leader Dragan Marković Palma, Mayor of Jagodina, the party One Serbia (JS) was explicitly against the Parade in 2011, as in 2010. Dragan Marković received a guilty verdict in the first instance for severe discrimination of the LGBT population in GSA's lawsuit, which is described in this report.

With regard to **the support of representatives of institutions**, the 2011 Pride Parade was supported by:

Boris Tadić, President of the Republic of Serbia: "Pride Parade which is organised by activists of the LGBT population in many European cities, and also in Belgrade, should be viewed primarily as a political gesture through which a minority community in our society legitimises its human and civil rights guaranteed by the Constitution, and by which it wishes to break negative stereotypes and prejudices that follow members of this group and make their everyday life more difficult" (24 Hours, 22 June 2011);

Slavica Đukić Dejanović, President of the National Assembly of the Republic of Serbia: "I sincerely respect the right to diversity and I believe it is a precondition for an organised and quality country", (Kurir, 23 June 2011);

Milan Marković, Minister for Human and Minority Rights, Public Administration and Local Self-Government: "The support of the Ministry for holding the Pride Parade is unambiguous, and in keeping with our experience so far and in cooperation with relevant bodies, we will provide assistance" (Blic, B92, 6 September 2011);

Nenad Đurđević, Director of the Human and Minority Rights Directorate: "I believe that the majority of Belgrade citizens are prepared for the holding of a 'Pride Parade' and they will not go out into the streets to fight someone they do not like. Last year's picture from the Parade is a picture of hooliganism which is motivated politically and ideologically. We support the right of the LGBT community to organise a peaceful demonstration in the streets to state their positions" (Blic, 11 September 2011).

Minister of Interior, **Ivica Dačić** was the first to open the issue of security in the public, which remained dominant until the end. "There are again serious security risks before this year's gay parade. That is why I appeal to politicians to be measured in their statements on this subject" (Evening News, 15 August 2011). However, immediately after that Dačić appealed to political parties and other state institutions to openly give their opinions on the Parade: "Ministry of Interior will not take part in holding the upcoming gay parade until the Assembly of the City of Belgrade, the Mayor of Belgrade, the Government and the President of Serbia openly give their opinions" (vestis, 16 August 2011). Risks of holding the Parade and risks to the police constituted the greater part of Ivica Dačić's statements in the period of organising this assembly, up to the decision to ban the Parade made by the Ministry of Interior and the National Security Council.

The Mayor of Belgrade **Dragan Đilas** did not change his earlier position that he did not support the Parade, but his reasons in 2011 were somewhat different than in the previous years and had to do with security conditions: "It is doubtful whether such a manifestation can be held in Belgrade without endangering property, members of the gay population, police officers, and citizens of Belgrade. Have we reached the point

where they could walk freely, not in some improvised cage like last year, without the entire city being demolished?” (New Magazine, 18 August 2011).

During the process of organising the 2011 Parade, of special note were the **activities of several different police syndicates** which were against this assembly and often aired their opinions. The Independent Police Syndicate announced already on 30 August that the Parade should not be held because there are security risks to the citizens and the police. “We don’t see what the problem is to ban that event”, said the representatives of this syndicate, furthermore announcing that, regarding their obligations with the Pride Parade, their members will act according to the law, i.e. they will stop the process of work if their safety at work is in danger, until the employer removes the reasons which led to their endangerment. The Police Syndicate of Serbia went even further on 22 September, when, together with a right-wing organisation “Dveri” (!?), they asked the representatives of LGBT organisations to cancel the Parade. They also asked political party leaders, both from the government and the opposition, to accept political responsibility and position themselves on the Parade issue, so as not to transfer this problem to the responsibility of the police and of the citizens who are against the Pride Parade.

BANNING THE PRIDE PARADE

The lack of clear political will, the altered political circumstances in comparison with the previous year, the high level of homophobia in society, and the inadequate sanctions of threats and risks to the safety of the Parade participants, led to the 2 October 2011 Parade being banned by the Ministry of Interior and the National Security Council on 30 September 2011.

This decision was preceded by the registration of numerous public assemblies for October 1, and October 2, near the planned route of the Parade, by extremist right-wing organisations such as “Obraz”, “Naši” and “Dveri”. Ministry of Interior made the decision to ban all assemblies planned for those two days in Belgrade and Serbia. The representatives of the Ministry and other security bodies, as well as state officials, justified such a decision by citing enormous security risks and violent scenarios⁵⁵ which were, according to them, planned by the opponents of the Parade. However, GSA has no knowledge that after the Parade any one of those violent people, extremist groups, organisations and individuals who had threatened, mobilised themselves and gathered together in order to commit criminal acts were processed and sanctioned according to the law.

ORGANISATION PROCESS

The confusion which reigned in the political space around the Pride Parade, also reigned among its organisers and other LGBT organisations. Such a situation did not give much confidence to the LGBT community and soon after the date of the Parade was announced by the organisers speculation began about the possibility it would not be held.

⁵⁵ http://www.pressonline.rs/sr/vesti/vesti_dana/story/178973/Da%C4%8Di%C4%87+zabranio+aei+paradu.html

Even though immediately after the first Parade in October 2010 Queeria activists registered an organisation called “Belgrade Pride Parade” without the knowledge of other LGBT organisations, at the March 2011 joint meeting of the LGBT movement all present organisations, including GSA, gave their support to holding the 2011 Parade. One of the conclusions from this meeting was that the preparations for the second Parade should begin immediately, considering the experience from 2010 when this process lasted about eight months and the 2011 Parade organisers’ claim that they would work on the same or similar model.

Completely unjustifiable delay with the start of its organisation until mid-August led, among other things, to the fact that the Parade story was opened in the public by politicians, who politicised this topic in the way that suited them.

In addition, it is troubling that the process of organising the 2011 Parade was not transparent and did not include in any of its segments communication with the wider LGBT community (or LGBT organisations which did not participate in its preparation), even though the Pride Parade concerns this population the most and reflects on them.

The most troubling things, however, are not organisational errors which can be mended in 2012 if there are sincere intentions and will of the organisers, but the goals and strategies of the future Parades.

If the Parade remains its own goal and an event which only seeks to “show” what kind of country we are living in, such minimalisation of the Parade will sooner or later bring into question its usefulness.

GSA feels that the Parade ought to be an important means in the battle against violence and homophobia which should communicate with the LGBT community in the future, recognise the community’s real needs, make them visible and lead to their realisation. The Parade needs to be used in order to reduce homophobia; to explain and bring the problems of LGBT people closer to citizens, primarily the problem of violence and discrimination; to increase tolerance; to gain new and keep the old allies; to empower LGBT people, so that they could come to the Parade and proudly walk in it, even if they perhaps did not know previously about it; to have their parents, friends and all those who wish to live in a truly democratic society and country come and support them; and to have more and more participants every year, while less and less violence, at the Parade.

PROTEST “IT’S ENOUGH”

After the attack and attempted murder of A.Ž., which has been described in this report, at the initiative of A.Ž.’s friends and LGBT activists, Gay Straight Alliance organised the first such protest in Serbia on 19 October 2011 in front of the Government of the Republic of Serbia, entitled “It’s Enough!” as a reaction to the attack that occurred four days before. Over 200 protesters cautioned against the escalation of violence in society, especially violence against minority groups, and stated that they had had

enough of violence, hatred, humiliations and insults, and that “there’s no more retreating within four walls”.

President of Gay Straight Alliance **Lazar Pavlović** told the press that members of LGBT population wish to live freely without fear, just like other citizens of Serbia. “We cannot as a society back down before violence and the state must react with systemic measures so as to prevent violence in the future”, Pavlović said. “People will no longer tolerate such things. They are very dissatisfied. Such things happen all the time, but only a small portion reaches the public ear. And this does not apply only to the LGBT population, but also when there are attacks on bus drivers, or religious buildings in Vojvodina or throughout Serbia, or violence against women, and so on. This is a symbol of everything that the state failed to do in previous years – to systemically begin combatting violence”.

President of Gay Lesbian Info Centre **Predrag Azdejković** said that it was troubling that the attacker was released, just because he was underage, even though he had a knife and attempted murder.

Present at the protest were also members of other non-governmental organisations, politicians and representatives of several embassies.

Željko Ivanji, MP from United Regions of Serbia (URS), told the agency Tanjug that the police and the judiciary needed to effectively protect citizens from violence, and that releasing the man suspected of attacking A. Ž. showed that state bodies were not doing their job properly. “I know it is difficult to change people’s awareness, especially regarding homophobia, but that task is challenging and we all must continue one by one. This is a series of personal battles, but we all as a society must also say: stop the violence. I am here to try in person to stop the escalating violence, which reminds me of the appearance of fascism”, Ivanji stated on that occasion.

Director of Centre for New Politics **Vladimir Todorčić** warned that those who do not sympathise today with members of the LGBT population should bear in mind that their own safety in the future is dependant on the safety of vulnerable minorities. “If members of this population cannot today walk freely in the streets, if they are being beaten on account of the clothes they wear, nobody in Serbia is guaranteed either security or freedom of speech and behaviour, and maybe not even the right to life”, said Todorčić.

The protest “It’s Enough!” was secured by a large number of Gendarmerie in riot gear, but there were no incidents. Near the Government Building, police took into custody three men for not having any identification. The whole time traffic went undisturbed in surrounding streets, and drivers, except for the occasional honking, did not pay attention to the protesters, who waved rainbow flags and chanted “it’s enough”. Next to the building’s entrance there was a large sign with the message “These hands are not violent” under which there were bowls with paints in rainbow colours, and the protesters left their handprints on the sign. The protesters also carried signs saying, “Homophobia can be treated”, “I don’t tolerate torture”, “Four walls for violent people”, “Violence in the streets-your responsibility”, “We are all A.Ž.” and “It’s not Serbian to be silent”. There were flags of the gay movement, but also a Serbian flag.

The protesters demanded that their delegation be received by the Prime Minister Mir-

ko Cvetković, but since that did not happen, the organisers left their demands on the door of the Government Building:

That the Government of the Republic of Serbia clearly, publicly and without delay condemn all forms of violence and hatred which are caused by racial, religious, national or other bigotry, homophobia, xenophobia or mysogyny

That the Government of the Republic of Serbia urgently create and implement a national programme for combatting violence and discrimination

That the work of police, prosecution and judiciary on cases of violence and discrimination based on sexual orientation and other cases caused by hatred from now on be more effective

That all reported cases be processed with urgency, and all offenders be found and punished

That the Government of the Republic of Serbia urgently propose to the National Assembly the introduction of the notion of hate crime into the Criminal Code of the Republic of Serbia, which will be considered an aggravating circumstance while processing cases

Two days after the protest, representatives from GSA met with **Slobodan Homen**, State Secretary in the Ministry of Justice, and **Nenad Đurđević**, Director of the Human and Minority Rights Directorate, who promised the creation of a strategy for combatting violence, discrimination and homophobia, and the introduction of hate crime into the Criminal Code.

OTHER IMPORTANT EVENTS

During 2011 police continued to secure place of gathering of LGBT people, parties and other events. There was a noted increase in the number of newly opened cafés, clubs, and teams who organise parties for the LGBT population. Regarding events important for the LGBT community, several film, music and cultural queer festivals took place during 2011, and a gay magazine started coming out, but there were also attacks on places of gathering of LGBT people, as well as cases of hate graffiti.

1. SECOND AND THIRD MERLINKA FILM FESTIVALS

Gay Lesbian Info Centre realised during 2011 two Merlinka film festivals in cooperation with the Belgrade Home of Youth – the second festival in February and the third in December.⁵⁶

Merlinka festivals that were held in 2011 lasted for five days. At the second Merlinka

56 <http://merlinka.com>

festival 47 films premiered – short, feature and documentary films with gay, lesbian and queer themes, that passed the official selection. The third Merlinka festival presented 61 short, feature and documentary films with gay, lesbian and queer themes, from the USA, the Great Britain, Brasil, Germany, France, Italy, Spain, Belarus, Australia, Singapore, Croatia and Serbia.

Throughout the festivals there were no incidents and the police and private security provided continuous protection to the participants and the guests of the festival at the Belgrade Home of Youth. Both festivals had intensive media and public campaigns. The festival was financially supported by the City of Belgrade and the Ministry of Culture of the Republic of Serbia, among others.

2. HATE GRAFFITI NEAR AUTOKOMANDA IN BELGRADE REMOVED

After a protest letter which Labris – Organisation for Lesbian Human Rights sent to the City Utility Inspection in Belgrade and the City Secretariat for Inspection Work because of the fact that even six months after the 2010 Pride Parade numerous hate graffiti against the LGBT population had not been removed from public areas, utility workers reacted quickly at the end of March 2011 by removing those graffiti near Belgrade Autokomanda.⁵⁷

3. FOURTH LESBIAN WEEK IN BELGRADE

Labris and Novi Sad Lesbian Organisation organised the fourth Lesbian Week in Belgrade at the end of April 2011. Around 50 activists from Serbia and other countries of the region participated.

The Lesbian Week aimed to raise awareness on lesbian rights, lesbian visibility, lesbian history, homophobia and politics of feminism, the exchange of knowledge and practices of lesbian activists in public manifestations, and creation of strategies for strengthening the ex-Yu lesbian network and joint action. Special guest was Joan Nestle, activist and writer from the United States of America.⁵⁸

4. THE FIRST LOUD & QUEER IDAHO WEEK FESTIVAL

Association Loud & Queer⁵⁹ organised the first IDAHO Week festival in Belgrade. The festival took place on 17, 19 and 21 May 2011 at several locations in Belgrade, the Home of Youth, club Gun and club Tube.

Loud & Queer IDAHO Week festival was a part of the global initiative which gathers over 90 countries which celebrate the International Day Against Homophobia (IDAHO) and at the same time it was supported by the international IDAHO Board from Paris. The festival was made possible by the support of the Assembly of the City of

⁵⁷ "Graffiti", Evening News, 23 March 2011

⁵⁸ <http://www.joannestle.com>

⁵⁹ <http://www.loudandqueer.rs>

Belgrade.

The aim of the festival was to create a wider public arena for presenting the LGBT community in Serbia, its political goals, everyday life and cultural production, and it also presented queer political and cultural products from the region and the entire world to the Serbian public.⁶⁰

5. GAY MAGAZINE “OPTIMIST”

The first issue of the gay magazine “Optimist” was published in June 2011 by the Gay Lesbian Info Centre. The magazine had five issues so far, and it is distributed free of charge in Belgrade, Niš, Novi Sad, Kragujevac, Leskovac, Šabac, Sremska Mitrovica, Zrenjanin, and Pančevo. The magazine comes out every other month and it aims to empower the LGBT population through information. The first number was a special edition that dealt with LGBT rights in Serbia, how to gain them, and offered alternative possibilities for activist work. All issues can also be found on the Internet.⁶¹

6. QUEER STAGE FOR THE FIRST TIME AT THE EXIT MUSIC FESTIVAL

Novi Sad EXIT festival for the first time in 2011 provided a queer stage throughout the entire duration of this international music festival at the beginning of July. “Loud & Queer Cruising Point” stage was home to many musicians, performers, video and film makers, and other talented artists from Serbia, the region and the entire world, during four days of the festival, thanks to the Association Loud & Queer, among others. This was also an opportunity for the visitors of EXIT festival to find out more about gay and lesbian subculture and community.

Loud & Queer organised the first gay party at EXIT festival in 2008. EXIT also supported the 2009 and the 2010 Pride Parade in Belgrade.⁶²

7. HATE GRAFFITI ON THE WALLS OF CULTURAL CENTRE “REX” IN BELGRADE AND SURROUNDING BUILDINGS

The building of the Cultural Centre “Rex” on Jevrejska Street in Belgrade was twice in October 2011 sprayed with graffiti and symbols of hatred directed at the LGBT community and other minority groups. For years Cultural Centre “Rex” continuously with its public programme content has promoted tolerance and diversity in society, including towards the LGBT population. Ruining the walls of the cultural centre building occurred in the period after the banning of the 2011 Pride Parade.

In the night between 3 and 4 October 2011, the walls of “Rex” were sprayed with

60 “Loud & Queer IDAHO Week festival!”, available at:
<http://www.izlazak.com/index.php/home/61-muzika/1573-loud-a-queer-idaho-week-festival>

61 <http://www.gayecho.com/optimizam>

62 <http://www.loudandqueer.rs/?p=79>

graffiti such as “Death to faggots!”, “Sectarians”, and similar.⁶³ Another destruction of property of this cultural centre, which is also a cultural monument protected by the law, happened on 12 October 2011, when an unknown perpetrator sprayed a swastika on the front door of “Rex”.⁶⁴

In that same period, certain surrounding buildings were also sprayed with similar hate graffiti directed at the LGBT population. City Utility Inspection demanded from the tenants of those buildings to remove those graffiti themselves, saying that the city services were not obligated by the existing regulations to perform that job.⁶⁵

8. EXHIBITION “NAZISTIC TERROR OVER HOMOSEXUALS FROM 1933 TO 1945”

Exhibition “Nazistic terror over homosexuals from 1933 to 1945” took place during December 2011 in the Belgrade City Museum, organised by association ARTEQ from Belgrade in partnership with association Queer Zagreb. The exhibition comprised of 150 archive photographs, texts and documents, which show the general and the personal histories of around 100,000 people arrested for homosexual orientation, before and during the Second World War. The development of systemic state homophobia in Nazi Germany, as well as the persecution mechanisms which remained to some extent till the 1970s are presented in a documentaristic fashion.

The purpose of the exhibition was to present historical facts by using authentic documents from the period of Nazism and to raise awareness on the suffering and grief of homosexuals under the Nazistic regime. The exhibition also sought to enable facing the stereotypes about LGBT people in the Serbian society, to promote tolerance towards minorities and to encourage different social factors to enter into a dialogue on the promotion of anti-fascist ideology and the breaking of prejudices towards people of different sexual orientation. The exhibition also had a rich accompanying programme which included several expert panel discussions, book and magazine promotions, video-installations and film screenings.

Among the main supporters of the exhibition were the Ministry of Culture, Media and Information Society of the Republic of Serbia, as well as Belgrade City Museum, Agency for European Integration and Cooperation with Associations of the City of Belgrade, Fund for an Open Society of Serbia, Heinrich Böll Stiftung, Heartefact Fund from Belgrade, and others.⁶⁶

9. SEVERAL ATTACKS ON THE BUILDING OF YOUTH CENTRE “CK13” IN NOVI SAD

63 “CC REX target for hooligans”, B92, 5 October 2011, available at: http://www.b92.net/kultura/vesti.php?nav_category=1087&yyyy=2011&mm=10&dd=05&nav_id=547233

64 “Offensive graffiti on the Rex building”, B92, 15 October 2011, available at: http://www.b92.net/info/vesti/index.php?yyyy=2011&mm=10&dd=15&nav_category=12&nav_id=549811

65 From the statement of S.K., Internal documentation of GSA, 28 October 2011

66 <http://arteq.org.rs>

Youth Centre “CK13” in Novi Sad, known among other things as the headquarters of two local LGBT non-governmental organisations, was attacked and ruined several times in the period from January to December 2011. On several occasions rocks were thrown⁶⁷, there were so-called “cannon attacks”⁶⁸, the building’s windows were broken⁶⁹ ⁷⁰, various hate graffiti were sprayed on the walls⁷¹, and at the end of September 2011 Molotov cocktails were thrown into the centre’s yard. GSA asked the police to find the perpetrators with urgency, to arrest them and bring them to justice, while the relevant judicial bodies were expected to give adequate punishments in a reasonable amount of time:

The attack on CK13 with Molotov cocktails in the night between Wednesday and Thursday was the most serious and the latest in a series of attacks on this cultural institution which has for several years provided conditions for the work of numerous organisations and individuals for the support of various minority communities, including two local LGBT organisations.

*GSA does not doubt that in this delicate moment before the Pride Parade, this attack occurred precisely because CK13 is one of the places of gathering of the LGBT population, but the question remains as to why, in the period when LGBT people are more at risk from violence, the Novi Sad police department has not paid more attention to them?*⁷²

The cases of attack and hate graffiti were reported to the police and local authorities.

In the meantime, several actions were organised to remove hate graffiti, not only from the walls of the CK13 building, but also across the City of Novi Sad. Feminist groups organised the first public action at the end of April 2011 to remove the hate graffiti. The Provincial Centre for Gender Equality in cooperation with the Provincial Ombudsman organised similar actions in May and in September 2011, when hate graffiti in Novi Sad were mapped and it was found that there were as many as 224 such graffiti in the centre of Novi Sad and more than half of them constituted hate speech towards the LGBT population. More than a third of all mapped graffiti were calls to take lives. At the end of November 2011, local officials from the League of Vojvodina Socialdemocrats and the Serbian Renewal Movement led a campaign called “Let’s whitewash the hatred in Novi Sad” in order not to tolerate any form of hatred and bigotry on the streets of the City of Novi Sad. Several hundreds of citizens took part in this action.⁷³

67 “NKSS deplores attack on CK13”, SeeCult, 30 July 2011, available at: <http://www.seecult.org/vest/nkss-osudila-napad-na-ck13>

68 “CK13 attacked again”, SeeCult, 2 August 2011, available at: <http://www.seecult.org/vest/ponovo-napad-na-ck13>

69 “New attacks on CK13”, SeeCult, 21 November 2011, available at: <http://www.seecult.org/vest/ponovo-napadi-na-ck13>

70 “Stop attacks on CK 13”, B92, 21 November 2011, available at: http://www.b92.net/info/vesti/index.php?yyyy=2011&mm=11&dd=21&nav_category=16&nav_id=559487

71 “NS: Hate messages on CK 13 building”, B92, 18 March 2011, available at: http://www.b92.net/info/vesti/index.php?yyyy=2011&mm=03&dd=18&nav_category=12&nav_id=500254

72 “Condemnation of attacks on Youth Centre CK13”, press release GSA, 29 September 2011

73 From the notes of dr Zorica Mršević. member of the Advisory Board of GSA

X THE RIGHT TO WORK

The right to work is guaranteed, in keeping with the law. Everyone has the right to the respect of personal dignity at work, to safe and healthy working conditions, to necessary protection at work, to limited working hours, to daily and weekly rest, to payed annual holiday, to fair remuneration for work and to legal protection in case of cessation of employment. No one can waive these rights.⁷⁴

Anti-Discrimination Act, Article 16, paragraph 1, forbids discrimination at work, i.e. violation of equal opportunities for starting employment or enjoying all labour rights under equal conditions – the right to work, to free choice of employment, to promotion, to expert training and professional rehabilitation, to equal pay for equal work, to fair and satisfactory working conditions, to holiday, to education, to forming and joining unions, and to protection from unemployment.

Labour Act, Art. 18, forbids direct and indirect discrimination of people seeking employment, as well as employees, with regard to gender, birth, language, race, skin colour, age, pregnancy, health condition, i.e. disability, nationality, religion, marital status, domestic obligations, sexual orientation, political and other opinions, social background, financial status, membership in political organisations, unions, or some other personal characteristic.

The insufficient implementation of constitutional provisions and existing legal regulations in the field of protection from discrimination at work often causes various problems to people who differ from the majority population with regard to sexual orientation or any other personal characteristic.

1. WORKPLACE HARRASSMENT OF V.L. (25), BELGRADE, FOR HIS SEXUAL ORIENTATION

At the beginning of August 2011 V.L. reported to Gay Straight Alliance that for a long time he had been suffering at his workplace, in a Belgrade construction company, from insults, humiliations and threats from his superiors and other employees because he was gay.

The first time I was insulted was at the beginning of September 2010 when I came out as a gay man. I had the most problems with the Assistant Manager of the firm where I work. Once at a coffee break, he said to other workers right in front of me that no one should drink coffee from my cup, because who knows to whom I gave oral sex

74 The Constitution of the Republic of Serbia. article 60. paragraphs 1 and 4.

right before. At the beginning of October 2010 he said that "I was ill because faggots fucked my brains out", after which one of the employees joined in and told others "not to turn their backs on me, so that I wouldn't rape and infect someone".

At the beginning of November 2010 I took sick leave, in order to get away at least a little bit from that pressure, since I didn't get any support or understanding from the General Manager after I complained to him about all those insults. He told me to sue them privately, because it was none of his business. That same manager told me a day or two after the 2010 gay parade that he wasn't able to take his wife out to lunch because of us fags.

I returned to work at the beginning of February 2011 and the verbal torture continued. The Assistant Manager told me he was disgusted by me, and one of the employees added that "he felt as if he passed by a carcass" when he would pass by me. That employee always keeps calling me a faggot, keeps saying that he will smack me at the first chance and threatening that I will never again be able to go into my village if I complain to you about all this. Recently, a couple of days ago, he told me the best thing for me would be an axe or a bat to the head, and then under the ground! This morning when I came to work, one of the employees asked me whether I could sit down on the chair and whether they fucked me out real good last night.

I can no longer stand this, and I'm afraid they will just fire me so that they don't have to look at me any more. I don't know what to do.⁷⁵

A few weeks after V.L. spoke to GSA, his employment was terminated. The Legal Service of GSA began a labour dispute to annul that decision and the proceedings are still in progress.

75 From the statement of V.L. on the incidents. Internal documentation of GSA. 6 August 2011

XI HEALTH CARE

Everyone has the right to protection of their physical and mental health. Health insurance, health care and establishing health funds are governed by law.⁷⁶

According to Health Care Act, the part related to the rights of citizens in the procedure of obtaining health care, it is said that a citizen has the right to health care which is adequate to his health state and the right to the quality of health care which is in keeping with the contemporary achievements of medical science and established standards.

Regarding the right to health care of LGBT people, 2011 was marked by **amendments to Health Insurance Act and Health Care Act**.

Soon after the Ministry of Health announced that proposals for amendments and addendums to Health Insurance Act and Health Care Act would enter parliamentary procedure, that happened, and on 28 July 2011, the National Assembly of the Republic of Serbia adopted the amendments to these acts, which, among other things, allow sex-change and sex-adjustment processes for transsexual people to be fully or predominantly funded by the state.^{77 78}

The adopted changes widened the circle of people who fulfill the conditions for insurance and afforded the right to change one's sex for medical reasons at the expense of the Republic Fund of Health Insurance, thereby enabling people who were troubled by incompatibility of sex with gender identity to exercise some of the fundamental human rights, the right to identity and the right to health care.

The application of these laws regarding the part about who is responsible for covering the costs of sex-change operations for medical reasons began on 1 January 2012.

Nineteen-year-old Aleksandar decided three years ago to change his sex and become what he always wanted to be - a man. Now that he is an adult, he can achieve that, and with the new law on health care, the operation for him and 200 other people, which is the number of those who are waiting for the sex-change operation, will be free.

This possibility encouraged Aleksandar and made him very happy, since the operation costs in his case come to 10.000 euros.

- I never felt good as a girl, nor did I ever identify myself as a girl. Somehow I always felt the need to be a man, and so I always used to play with boys. I wore dresses and

76 The Constitution of the Republic of Serbia, article 68, paragraphs 1 and 3.

77 "Sex-change funded by state in 2012", B92, 20 July 2011, available at: http://www.b92.net/info/vesti/index.php?yyyy=2011&mm=07&dd=20&nav_category=206&nav_id=526581

78 "Health Care Act changes adopted", Kurir, 28 July 2011, available at: <http://www.kurir-info.rs/usvoiene-izmene-zakona-o-zdravstvenoi-zastiti-clanak-101928>

skirts very very rarely, and I hated wearing make-up, which my mother sometimes insisted on. I wore a dress only for my prom, and that only for my parents and the social environment - said Aleksandar.

On his desire and intention to change his sex he kept quiet to his parents for a long time, until last year. He was fortunate that his parents accepted it and lent him their support.

- My parents not only support me, but are collecting money for the operation. These procedures are expensive and cost several thousands of euros. Their wish was that I get the operation abroad, but the possibility to do this here covered by the state gives me great joy – Aleksandar said.

The operation will, as he said, give him the life he wants, and he already took the first preparatory steps for the sex-change, by talking to a psychiatrist at the clinical hospital centre KBC „Dr Dragiša Mišović“.

- There was a time when only my best friend knew about my problem, but now everybody knows and I feel so much better. Though I wish people would talk to me as a man, because although I haven't changed my sex yet, addressing me in the feminine gender offends me, since I don't feel that way – Aleksandar said.⁷⁹

- Ever since I was a child I saw myself as a woman, not as a boy: I wore make-up, I did my hair, I dressed in a feminine manner. I didn't have my mother's support, not at the beginning, because it took her a long time to accept my decision - says Marija.

Her dream began to come true when she first went to a psychiatrist who specialises in transsexual relations. Talking to him, and the therapy, are integral to the course of transformation.

- Only two or three doctors specialise in this field, and you can go to the Institute for Mental Health, KBC „Dragiša Mišović“. It is an individual thing, how many sessions it takes for the doctor to determine whether a person is ready for the sex-change. After that I was referred to an endocrinologist.

Hormonal therapy started to realise all of my dreams. Gradually I got breasts, hips, I was becoming more and more feminine – Marija says.

But the road to femininity cost her 3.000 dinars per one box of hormone pills which lasts 50 days. The hormone treatment lasted two years. Then came another psychiatric consult before the operation, and finally the operation itself, which Marija payed 2.500 euros. In the end, as she said, the work of the doctors and the staff of the OB/GYN clinic GAK „Narodni front“ was more than satisfactory for her.

- On the other hand, the transformation from woman to a man costs up to 10.000 euros. So I feel that this decision by the state is like a gift from the heavens for all those who are still to go through this process – Marija concludes.⁸⁰

79 "I am happy that I can finally change my sex without paying", Blic, 21 July 2011, available at: <http://www.blic.rs/Vesti/Drustvo/267164/Radu-je-me-sto-cu--najzad-moci-da-promenim-pol--bez-placanja>

80 Ibid.

XII SOCIAL WELFARE

Citizens and families which require social help for overcoming social and environmental difficulties and creating conditions for meeting the basic necessities of life, have the right to social welfare, whose allocation is based on the principles of social justice, humanism and respect of human dignity.⁸¹

1. THE CASE OF S.T. (26) FROM ZRENJANIN

S.T., a young gay man from Zrenjanin, contacted Gay Straight Alliance on 2 June 2011 with the help of a friend from Belgrade, in order to request some assistance regarding housing, since for some time his family did not allow him to live with them on account of his sexual orientation. Talking to members of the GSA team for socio-psychological support, S.T. said that he was literally living in the streets of Belgrade, that he did not know where he would be able to sleep the next night, because he was forced to live in impossible conditions from which he wished to escape. GSA was able to help him find temporary housing with the assistance of the Counseling Clinic for Women Victims of Domestic Violence in Belgrade.

I told my family I was gay when I was 16. My father insisted that I “change”, so he took me to various medical exams – I had to get tested for HIV, I went to a psychologist and a psychiatrist. One of the psychiatrists from the Zrenjanin hospital wanted to keep me there in order to “try and cure me”. That was in the middle of 2001. My mother objected to that, so I didn’t end up in “treatment” on the psychiatric ward.

After my 18th birthday when I finished school, fights with my father became more intense, about my sexual orientation, employment, behaviour, because I didn’t have a girlfriend “like normal people”, because the neighbourhood found out about my sexual orientation. The environment I lived in made fun of both me and my father. My mother had no say in these matters, because she was unemployed, so, according to father’s rules, she had no right to decide or express her opinions.

The situation in my family was such that there was a marked difference in the way my parents, especially my father, treated me on the one hand, and my brother and sister on the other – they were allowed everything, while I wasn’t allowed a lot of things because I was gay. When I had a job and I worked, then that relationship would get slightly better. In the periods when I lost a job or changed jobs, every good thing I had ever done was erased – one bad thing erased everything good. Whenever I made some mistake, I was not allowed to go out, I wouldn’t get pocket money, my father would lock me in the house, he would deny me access to Internet and communication with my friends. I had no say in the house and sometimes I would also be denied meals, because, as my father would say, “if I don’t work, then I shouldn’t eat, since

81 The Constitution of the Republic of Serbia. article 69. paragraph 1.

I don't contribute anything to the household." Also, he beat me very often up until I was twenty for whatever thing that displeased him about me, while the mental torture was constant.

At the beginning of summer of 2010, my father kicked me out of the house and sent me to live at my grandfather. I somehow managed to get by on odd jobs, but my grandfather also helped me from time to time. In March 2011 I moved to my boyfriend's flat in Novi Sad. There I worked for a while, but soon we broke up. After that I met a man from Belgrade over the Internet who promised me a good job, housing and food. When I came to Belgrade at the end of May – beginning of June 2011, I realised it was a ruse – instead of the promised job, he said I could either become a prostitute and thus provide for myself, or else stay on the streets. Since I had nowhere to go, because coming back home was impossible and I lost my job in Novi Sad, I accepted his demands and conditions. The house I was forced to live in was made of mud and thatch, and there were five other people living there, including the "pimp". He had three clients to whom he "sold" me for sexual favours.

Because of the stress and the conditions in which I lived (I usually slept in a chair in the dining-room, because the "house" was bug infested), because of the job I was forced to do, I felt worse and worse, and more and more scared for my own life.

I called a friend from Belgrade, who I used to know from a political party which I joined, and asked him to help me in any way or to ask around to see if anyone else could help me. He connected me to GSA, who were able to find me temporary housing in the Safe House for Women Victims of Violence in Belgrade.

I'm trying to find a more stable job, but I haven't quite managed yet. Not long ago, when I was at a job interview at a store, the employer kept looking at me "from head to toe" during the interview, he kept looking at me funny and finally told me "I was too soft" for a cashier's job. In another similar situation, I was advised not to talk to the boss about politics or anything personal, and also to represent myself as somebody else with fake details about myself and my background, so that the boss, who has very conservative political opinions, would give me the job and let me keep it.

My only wish is to be independent and not to depend on anyone – simply to be my own man.⁸²

Soon after he started using the temporary housing in the Safe House for Women Victims of Domestic Violence in Belgrade, GSA helped S.T. to find a part-time job. In mid-July 2011, after he reached psycho-social and financial stability, S.T. left the Safe House.

82 From the statement of S.T.. Internal documentation of GSA. 13 June 2011

2. THE CASE OF STEFAN RADOVIĆ (19) FROM KURŠUMLIJA

Stefan Radović, a young gay man from Kuršumljia, spoke openly in an interview to the weekly newspaper NIN in December 2011 about the problems and unpleasantness he had been facing for years in his environment because of his sexual orientation. GSA immediately contacted Radović and offered him help if he should need it, bearing in mind the possible consequences which in GSA's experience with similar cases could occur due to widespread homophobia.

After leaving his family home and Kuršumljia, with the help of Committee for Human Rights Niš and Gay Straight Alliance, Radović came to Belgrade, where GSA provided him with housing and necessary financial help for the first week. The GSA team for socio-psychological support continuously worked with Radović since the moment he arrived in Belgrade in order to identify the priorities in the help he required. GSA also worked on exploring possible options for finding him a more stable solution for housing and financial support, with the purpose of gaining independence as soon as possible, i.e. finishing school and finding a job.

Since the protocol of GSA in such situations also includes mediation with parents whenever possible, contact and cooperation was established with Stefan's family, and after that communication between them.

Apart from GSA and Committee for Human Rights Niš, help was offered to Stefan Radović from the Safe Pulse of Youth from Belgrade, and several individuals also got involved in the action of helping him by offering temporary housing or money.

After a one-week period, the so-called adaptation period, according to GSA's capabilities Radović was offered options for the future period. He chose the one that was the most acceptable to him, which included housing in Belgrade and basic living costs covered by GSA.⁸³

After spending a few days in these new surroundings, Radović decided to return to Kuršumljia, because, as he said, he wished to live on his own and not with a roommate as was the case in this option.

83 "Press release regarding the case of Stefan Radović". GSA press release. 29 December 2011

XIII THE RIGHT TO EDUCATION

Everyone has the right to education.⁸⁴

Basics of Education System Act also determines the following goals: full intellectual, emotional, social, moral and physical development of every child and student, according to his age, developmental needs and interests; developing the ability to communicate, dialogue, feeling of solidarity, quality and effective cooperation with others and the ability for team work and developing friendships; developing the ability for the role of a responsible citizen, for a life in a democratic and humane society based on the respect of human and civil rights, the right to be different and caring for others, as well as the fundamental values of justice, truth, freedom, honesty and personal responsibility; developing and respecting racial, national, cultural, linguistic, religious, gender, sexual and age equality, tolerance and appreciation of diversity.⁸⁵

Even though it is well-known that the education system forms one of the pillars of every society, Serbian education authorities do not show a serious readiness to combat peer violence and discrimination based on sexual orientation and gender identity in education institutions. Moreover, there have also been cases when the teaching staff publicly and actively among students propagated intolerance, hatred and bigotry towards people with same-sex sexual orientation. Such cases are, unfortunately, the evident testimonials of the current state of education system in the Republic of Serbia, which does not recognise the importance of a systemic, decisive and long-term approach to the training of teaching staff.

The degree of the students' exposure to violence and discrimination in their learning environment on account of their sexuality is still very high. Information regarding cases of violence and discrimination of students in schools still comes to GSA with great difficulty, not only because of the victims' terrible fear from additional stigmatisation and new problems, but also because of the lack of quality mechanisms within the education system for monitoring and prevention of peer violence and discrimination.⁸⁶

At the same time, inadequate and inappropriate content of high school and university materials which still treat same-sex sexual orientation as an illness despite the fact that homosexuality was removed from the list of mental illnesses by the World Health Organisation more than twenty years ago, form the basis of further reproduction of prejudices, homophobia, intolerance and rejection of people with same-sex sexual orientation in our society.

On that account, Gay Straight Alliance and association Gayten-LGBT held a meeting at the end of November 2010 with the Commissioner for Protection of Equality, Nevena Petrušić, where the subject was the need for a reform of the high school materials

84 The Constitution of the Republic of Serbia, article 71, paragraph 1.

85 Basics of Education System Act, article 4, Službeni glasnik RS, number 72/2009.

86 See section IV of this report. subsection: 1.8. Attack on A.R. (18) in a Belgrade high school

in order to eliminate discriminatory content, not only regarding people with different sexual orientation and gender identity, but also other minority and vulnerable groups. The meeting resulted in an initiative to adjust teaching materials and practices to the principles of education for human rights and an inclusive society. At the end of December of the same year, there was another meeting between the Minister of Education with associates and the Commissioner for Protection of Equality with representatives of Gay Straight Alliance and Gayten-LGBT. The purpose of that meeting was to discuss operationalisation of integrating relevant topics in educational programmes and the manner of eliminating discriminatory practices.

After this meeting, a group was formed – the Working Group for Analysing Teaching Plans and Programmes and Teaching Materials from the aspect of their compatibility with the principles of education for human rights and an inclusive society – with the task of gathering, analysing and summarising the results of research on teaching plans and programmes, school books and other teaching materials for elementary and secondary schools. Based on that, the Working Group was charged with coming up with recommendations on the manner in which relevant topics related to human rights, non-discrimination, tolerance, non-violence, equality, accepting differences and similar, could be integrated into the teaching plans and programmes and covered in school books, in keeping with the principles of education for human rights and an inclusive society. The Working Group was comprised of members of relevant organisations in civic society that deal with the promotion and protection of rights of children and adults from vulnerable social groups and with the development of education in Serbia, including a joint delegate from GSA and Gayten-LGBT.

In the period from January to March 2011, the Working Group prepared documents and recommendations for the Ministry of Education and Science and for other relevant education institutions, and their methodology included: summarising data from the existing national research on the status of marginalised groups of citizens; an overview of studies, analyses and expert texts on recognising discrimination and reacting to it; children's rights, violence and learning about human rights in the framework of the regular education system; analysis of certain school books for elementary and secondary schools and overview of catalogues for professional training of teachers, and standards of obligatory elementary education.

The Working Group produced an overview of the status and visibility of certain social groups that are the most vulnerable, but the given examples and recommendations could be tied to other groups as well, which were not covered in this research, considering that a general picture was presented here on the needs for further development of learning about human rights and protection against discrimination in order for education to truly represent a source and a basis of the development and study of tolerance and democratic society. The analysis presented the status and visibility of several vulnerable groups in our society: children/adults with disabilities, women, and members of sexual minorities, and the topics that were covered included violence, visibility in the education system, use of terminology, approaches in emphasising the importance of principles and values of the education system in promoting and developing the system of human rights protection, tolerance, non-discrimination and solidarity.

A quality education for every child implies the development and application of an inclusive education. One of the principles of inclusive education is the study of human rights and the study for human rights, i.e. it not only implies that all children should be included in the education system, but that such an education system should be created that would develop the principles of a democratic society, that would teach non-discrimination and equality, and that would form tolerant, non-violent and democratically aware generations of citizens. The aim of the recommendations to the relevant bodies is to improve educational content, programmes and materials in order to develop in students the respect for diversity and for human rights and to prepare them to contribute in their everyday life towards the development of an inclusive society.⁸⁷

At the beginning of July 2011, the Commissioner for Protection of Equality presented to the public the set of recommendations for the Ministry of Education and Science, the National Education Council and the Centre for Improving the Quality of Pedagogy and Education with the goal to improve teaching content and practices in order to affirm human rights, equality and non-discrimination.⁸⁸

A research conducted by the Helsinki Committee for Human Rights in Serbia in 2011 among high schools in six Serbian cities, dealt, among other things, with the degree of homophobia among the high school population. Although the results showed that there is still a high degree of homophobia, prejudice and intolerance against LGBT people, it can be said that the trend shows positive advances, and so, for example, 22 % of the interviewees (as opposed to 60 % in 2009) think that LGBT people deserve to be beaten.⁸⁹

1. THE CASE OF TEACHER JELENA POPOVIĆ-IVANOVIĆ WHO OPENLY SPREAD HATRED AND CALLED FOR VIOLENCE AGAINST LGBT PEOPLE

In mid-September 2011 the public was informed by the media that Jelena Popović-Ivanović, a teacher in a Novi Sad technical high school, was openly spreading hatred and calling for violence against LGBT people and other minority communities via her Facebook profile. Popović-Ivanović, on her profile under the name “Nikita Če Buraška“, among other things, stated that people should stay away from, ignore and neglect LGBT persons, as well as that LGBT people ought to be “silenced in any way, because they propagate disease“, and that people are best “taught what’s right” when they are “punched in the snout“, adding that members of the LGBT population

87 “Recommendations to the Ministry of Education and Science of the Republic of Serbia, the National Education Council and the Centre for Improving the Quality of Pedagogy and Education, for removing discriminatory content from teaching materials and practices and for promoting tolerance, respecting diversity and human rights”, available at: http://www.ravnopravnost.gov.rs/files/2011.06.10.%20Preporuka%20Ministarstvu%20prosvete%20i%20nauke_Nacionalnom%20prosvetnom%20savetu%20i%20Zavodu%20lat.doc

88 “Petrušić: Remove prejudices from school books“, Blic, 5 July 2011, available at: <http://www.blic.rs/Vesti/Drustvo/264055/Petrusic-Izbaciti-predrasude-iz-udzbenika>

89 “Attitudes and value orientations of high school students in Serbia“, Helsinki Committee for Human Rights in Serbia. available at: <http://www.helsinki.org.rs/serbian/doc/sveske31.pdf>

themselves cause the violence to which they are subjected. All these statements were applauded by her students by giving her support in the comments.⁹⁰

Even though Popović-Ivanović was without doubt aware of the weight and the influence of her words on her students, since in one of the last comments she even wrote "don't anybody criticise me just because I'm a teacher", she continued to spread hatred in the same manner not only towards LGBT people, but also towards national minorities.

Regarding this case, Sandra Čaušević, member of the Advisory Board of Gay Straight Alliance and a teacher, wrote the following reaction:

Primarily as a human being and then also as a teacher I must severely condemn the actions of teacher Jelena Popović-Ivanović. No teacher, who should first and foremost be a pedagogue, can allow themselves to spread bigotry and openly call for violence, regardless of their personal opinions. If a teacher can spread hate speech publicly like this, through a social network, it begs the question what such a teacher could be telling her students in a class that is not so public. As a consequence of this, we have an increasing number of very young violent people who, probably encouraged by the attitudes of those adults which should be their role models (parents, teachers...), literally leave their school desks to commit violence on the streets, without really being aware of why they are doing this but actually only reflecting the opinions and the behaviour which they are exposed to. Our job as teachers is to prevent such behaviour of young people in time, to educate them and teach them tolerance towards everyone who thinks differently, and not to incite them to violence. For, if we, as the representatives of an educational institution, fail to do this, I do not know who will. Maybe this task presents too great a challenge for certain teachers, but, then again, not everyone is cut out for this calling. I believe that all teachers should react and condemn such behaviour on the part of a teacher, and I also expect a reaction from the Ministry of Education.⁹¹

GSA appealed to all relevant bodies to urgently and without delay begin combatting hate speech, inciting hatred, and open calls for violence against various minority social groups within the education system, and furthermore announced that the Legal Service of GSA would file both a lawsuit and a criminal charge against teacher Jelena Popović-Ivanović for violating the Anti-Discrimination Act if the relevant prosecutor failed to react in due time to the above-mentioned hate speech and open calls for violence.

After the teacher was interviewed by the police, her case was given to the Higher Public Prosecutor in Novi Sad, which then referred it to the Prosecutor for high-tech crime.⁹²

90 "Material in English, hatred in Serbian", e-Newspapers, 20 September 2011, available at: <http://www.e-novine.com/drustvo/51012-Gradivo-engleskom-mrnja-srpskom.html>

91 Reaction of Sandra Čaušević, from GSA press release: "Country needs to end hate speech and calls for violence in education system", 20 September 2011

92 "Hate-spreading Teacher Case Given to the Prosecutor", Blic, 7 October 2011, available at: <http://www.blic.rs/Vesti/Hronika/281745/Slucai-profesorke-koia-siri-mrzniu-predat-tuzilastvu>



РЕПУБЛИКА СРБИЈА
ВИШИ СУД У БЕОГРАДУ
2. П бр. 3753/10
Дана: 22.02.2011. године
Београд
Тимочка 15.

У ИМЕ НАРОДА

ВИШИ СУД У БЕОГРАДУ, судија Васић Предраг, судија појединац, у правној ствари тужилаца **ГЕЈ СТРЕЈТ АЛИЈАНСЕ**, Београд, [REDACTED] и **МИЛИЋЕВИЋ БОРИСА**, из Новог Београда, [REDACTED] чији је пуномоћник Ђукић Верољуб, адвокат из Београда, [REDACTED] против тужених „PRESS DNEVNE NOVINE“ d.o.o. [REDACTED] чији је пуномоћник Арпад Заварко, адвокат из Новог Сада, [REDACTED] **ПОПОВИЋ ИВЕ**, из Београда, [REDACTED] и **ЈАНКОВИЋ НЕБОЈШЕ**, из Београда, [REDACTED] чији је пуномоћник Арпад Заварко адвокат из Новог Сада, [REDACTED] ради накнаде штете, вредност спора 900.000,00 динара, донео је по одржаном и закљученом рочишту за главну расправу, дана 22. фебруара 2011. године, следећу:

ПРЕСУДУ

I УСВАЈА СЕ тужбени захтев првотужиоца Геј стрејт алијансе, из Београда против тужених „Press“-дневне новине доо, Београд и Небојше Јанковића из Београда, па се **УТВРЂУЈЕ** да текстови-коментари објављени дана 02.07.2009. године на интернет сајту првотуженог „Press online“ који гласе: „драго ми је што сам „сељачина“, „докле иде тај Пинк“, „Ломача“, „Боже сачувај“, „Нон“, „Хендикеп“, „Друже Тито“, „:-)“, „Ок“, „Хмм“, „Срамота“, „Нешто ту много базди“, „Само шетајте“, „Психичко обољење“, „Кажу биће батина“, „Слушамо о гутању док је Србија на умору“, „Геј“, представљају говор мржње и да је допуштањем и омогућавањем да се наведеним текстови поставе на сајт првотуженог, првотужени дискриминаторски поступао према првотужиоцу.

II ОДБИЈА СЕ тужбени захтев друготужиоца Милићевић Бориса из Новог Београда против тужених „Press“-дневне новине доо, Београд и Небојше Јанковића

из Београда, да се утврди да текстови-коментари објављени дана 02.07.2009. године на интернет сајту првотуженог „Press online“ који гласе: „драго ми је што сам „сељачина““, „докле иде тај Пинк“, „Ломача“, „Боже сачувај“, „Но-но“, „Хендикеп“, „Друже Тито“, „:-)“, „Ок“, „Хмм“, „Срамота“, „Нешто ту много базди“, „Само шетајте“, „Психичко обољење“, „Кажу биће батина“, „Слушамо о гутању док је Србија на умору“, „Геј“, представљају говор мржње и да је допуштањем и омогућавањем да се наведеним текстови поставе на сајт првотуженог, првотужени дискриминаторски поступао према њему.

III ЗАБРАЊУЈЕ СЕ туженима Press дневне новине доо и Небојши Јанковићу да на интернет сајту www.pressonline.rs поново објављује наведене текстове: „драго ми је што сам „сељачина““, „докле иде тај Пинк“, „Ломача“, „Боже сачувај“, „Но-но“, „Хендикеп“, „Друже Тито“, „:-)“, „Ок“, „Хмм“, „Срамота“, „Нешто ту много базди“, „Само шетајте“, „Психичко обољење“, „Кажу биће батина“, „Слушамо о гутању док је Србија на умору“, „Геј“.

IV ОДБИЈА СЕ тужбени захтев тужилаца којим је тражено да се туженима забрани објављивање и других сличних текстова који садрже идеје, информације и мишљења којима се подстиче дискриминација, мржња или насиље против ЛГБТ особа

V ОБАВЕЗУЈЕ СЕ тужени Небојша Јанковић да у дневном листу Press у рубрици „Цет-сет свет“, о свом трошку солидарно објави ову пресуду у целости, без икаквог коментара и без одлагања, а најкасније у другом броју дневне штампе од дана правноснажности пресуде.

VI ОДБИЈА СЕ тужбени захтев тужилаца да се тужени обавезу да им солидарно, на име правичне накнаде нематеријалне штете претрпљене услед душевних болова због повреде части, угледа и права личности, проузрокованог дискриминаторским поступањем и објављивањем текстова који садрже говор мржње по основу сексуалне оријентације, исплате износ од по 900.000,00 динара са законском затезном каматом од дана пресуђења до исплате.

VII ОБАВЕЗУЈУ СЕ тужени да тужиоцу Геј стрејт алијанси, Београд, надокнаде трошкове овог поступка у износу од 70.560,00 динара у року од 8 дана од пријема пресуде.

VIII Тужба тужилаца у односу на друготужену Поповић Иву је ПОВУЧЕНА

УСВАЈА СЕ предлог за одређивање привремене мере па се **ЗАБРАЊУЈЕ** туженима Press дневне новине, доо и Небојши Јанковићу да на интернет сајту www.pressonline.rs поново објављују наведене текстове-коментаре који гласе: „драго ми је што сам „сељачина““, „докле иде тај Пинк“, „Ломача“, „Боже сачувај“, „Но-но“, „Хендикеп“, „Друже Тито“, „:-)“, „Ок“, „Хмм“, „Срамота“,

„Нешто ту много базди“. „Само шетајте“, „Психичко обољење“, „Кажу биће батина“, „Слушамо о гутању док је Србија на умору“, „Геј“.

Ова привремена мера остаје на снази до правноснажног окончања ове парнице.

Евентуално изјављивање жалбе не задржава извршење овог решења.

Образложење

Тужиоци су дана 14.07.2009. године а преко пуномоћника, поднели тужбу са предлогом за одређивање привремене мере, Првом општинском суду у Београду против тужених, у којој су као и у току поступка навели да је дана 02.07.2009. године на интернет издању дневног листа Press Online, у оквиру рубрике „Дет-сет свет“, објављен текст аутора Д.М. о извесном Адорјану Курутзу, у коме он отворено говори о својој сексуалности и хомосексуалној оријентацији. Исти текст објављен је и на интернет страници туженог у електронском-интернет издању, на коме је свако заинтересовано лице могло путем интернета да пошаље коментар, што је до подношења тужбе учинило 85 особа. Навели су да огромна већина коментара садржи најприземније вређање, позива на убиства, клање, претње да ће нападати на живот, тело и имовину ЛГБТ особа, предлаже се стављање ЛГБТ особа у изолацију и др. Наведени текстови садрже идеју да је убијање ЛГБТ особа друштвено пожељно понашање, легитимно и легално. Резултат таквог представљања је угрожавање признавања, уживања и вршења под једнаким условима људских права и основних слобода у било којој области јавног живота ЛГБТ особа. Навели су да су тим текстовима повређени част и углед као и права личности друготужиоца-који је геј оријентације и председник првотуженог, услед чега је трпео јака душевне болове, као и да сами текстови представљају говор мржње. Поднеском од дана 01.12.2009. године, повукли су тужбу у односу на друготужену Поповић Иву, након сазнање да иста више није директор веб редакције првотуженог. Трошкове су тражили и ближе су их определили.

Првотужени је а преко пуномоћника у одговору на тужбу као и у току поступка оспоравао тужбу и тужбени захтев и противио се предлогу за одређивање привремене мере. Првенствено је истакао приговор активне легитимације тужиоца првог реда, из разлога што је тужбени захтев усмерен на накнаду нематеријалне штете настале услед душевних болова изазваних повредом угледа, части и права личности, а познато је да само физичка лица могу имати право на накнаду нематеријалне штете јер само она могу трпети исту, те како Геј стрејт алијанса није физичко лице, није ни активно легитимисано. Такође, истакли су приговор активне легитимације и у односу на тужиоца другог реда. Друготужилац је председник првотужиоца, али није јасно у каквој је вези са предметним чланком објављеним у „Press“ дневним новинама и на интернет порталу www.pressonline.rs, јер се ни у једном делу текста не спомиње нити именом, ни ликом. У „Press“-у дана 02.07.2009. године, објављен текст је под насловом „Бићу геј икона“, који

представља интервју са Адорјаном Курутз, учесником квиза „Тренутак истине“. Нигде у тексту се не помиње „Геј стрејт алијанса“ као удружење грађана, ни председник те алијансе. Друготужилац, те је апсолутно нејасно каква веза постоји између тужилаца и објављеног интервјуа. Трошкове тражио и ближе их определио.

Суд је по свом уверењу на основу савесне и брижљиве оцене сваког доказа засебно и свих доказа заједно као и на основу резултата поступка сходно одредби члана 8 Закона о парничном поступку утврдио следеће:

Увидом у извод са сајта „Press online“ од дана 02.07.2009. године, суд је утврдио да се на истом налази интервју Адорјана Курутза, учесника квиза „Тренутак истине“, под насловом „Бићу геј икона“, у коме говори о својој хомосексуалности. Текст је потписан иницијалима Д.М. На исти текст објављени су коментари увредљиве садржине, где се припадници геј популације називају „изопаченим, хендикепираним људима“, позива се на њихово „спаљивање на ломачи“..., „затварање у гето“, „изолацију“...упућују им се претње – „Само шетајте...чекамо вас, биће свега“ и сл.

Увидом у извод са сајта „Press online“-упозорење, суд је утврдио да на истом стоји да коментари који садрже вређање, непристојан говор, расну и националну мржњу као и нетолеранцију сваке врсте неће бити објављени, говор мржње је забрањен, као и да задржавају право избора коментара који ће бити објављени.

Увидом у фотокопију текста у дневним новинама „Press“ од дана 02.07.2009. године, суд је утврдио да се на страни бр.29, у оквиру рубрике „Цет сет свет“ налази интервју Адорјана Курутза, учесника квиза „Тренутак истине“, под називом „Бићу геј икона“. Текст је потписан иницијалима Д.М.

На рочишту одржаном дана 21.12.2010. године у доказном поступку, у својству парничне странке, саслушан је друготужилац Милићевић Борис који је изјавио да је дана 02.07.2009. године читао интернет издање дневног листа „Press online“, рубрику „Цет сет свет“, где је објављен текст аутора, потписаног иницијалима Д.М. о Адорјану Курутзу, који је у квизу „Тренутак истине“ говорио и о својој сексуалности. Текст који је објављен у интернет издању, а који представља интервју је био коректан, те с тога није на њега имао примедбе, међутим, првотужени је омогућио да свако заинтересовано лице пошаље коментар на објављени текст, те је упућено велики број претњи хомосексуално оријентисаним лицима, да их треба стрељати, побити, ставити у гето, заклати. Све то је било објављено у јеку геј параде 2009. Године. Из тих коментара је закључио да је реч о говору мржње. Навео је да на сајту првотуженог постављена константација да је забрањено вређање и говор мржње, као и да редакција неће дозвољавати управо такве коментаре. Од објављивања текста до јутарњих сати пристигло је око 87 коментара. Навео је да због чињенице да је геј два пута претучен на улици, као и да је средином јула месеца 2009. Године, два пута јурен од стране њему непознатих лица.

На рочишту одржаном дана 22.02.2011. године, у доказном поступку, у својству парничне странке саслушан је трећетужени Јанковић Небојша, који је изјавио да је уредник веб редакције „Press online“, од 2006. године. Навео је да је у питању текст који је интегрално пренет и на интернет издање дневног листа „Press online“. Сви коментари који се појављују на било којој страници сајта не одражавају став редакције, нити дела уредништва. Техничка је ситуација да се коментари објављују у моменту када их посетилац остави на самом сајту, након чега модератор реагује, и када се појави коментар који није прикладан исти се скида и брише комплетно са сајта. Такав облик модерације назива се пост модерација. Навео је да у конкретном случају, посетиоци су своје коментаре изнели након објављивања текста, што је било око 23 часа, и ти коментари су било објављени истог тренутка, а сам модератор тек ујутру када му радно време почиње, пропустио је да види коментаре и они су остали наредних неколико дана на сајту. Приметио их је после неколико дана од објављивања. Након што су приметили, обрисали су их првом приликом. Навео је да је данас дошло до унапређења софтвера, те да се примењује предмодерација, што подразумева да сви коментари стижу у базу необјављени, а на сајту се објављују тек након одобрења модератора. Њихово радно време је од 09-23 часова, при чему један ради од 09-17 а други од 17-23 часова. Такође је навео да су коментаре обрисали и самоиницијативно, пре подношења тужбе али како је пристизао велики број коментара и након тужбе, реаговали су и тада.

Након спроведеног доказног поступка суд је утврдио следеће чињенично стање:

Дана 02.07.2009. године на сајту www.pressonline.rs, у интернет издању дневног листа „Press“-а, тачније „Press online“ у оквиру рубрике „Цет-сет свет“, објављен је текст аутора потписаног иницијалима Д.М. Текст носи назив „Бићу геј икона“ и представља интервју са Адорјаном Курутзом, учесником у квиза „Тренутак истине“, у коме он отворено говори о својој сексуалној опредељености и хомосексуалности. На наведени текст, заинтересована лица остављала су коментаре, која у себи садрже говор мржње, усмерен према ЛГБТ особама. Исти коментари су објављени од стране туженог „Press“-а, тачније интернет издања „Press online“. Коментари су објављени иако на сајту туженог стоји упозорење да коментари који садрже вређање, непристојан говор, расну и националну мржњу и нетолеранцију сваке врсте неће бити објављени, као и да је говор мржње забрањен на њиховом порталу. Уредник веб редакције „Press online“ је Небојша Јанковић.

Чланом 38 Закона о јавном информисању прописано је да је забрањено објављивање идеја, информација и мишљења којима се подстиче дискриминација, мржња или насиље против лица или групе лица због њиховог припадања или неприпадања некој раси, вери, нацији, етничкој групи, полу или због њихове сексуалне опредељености, без обзира на то да ли је објављивањем учињено кривично дело.

Чланом 39 став 2 Закона о јавном информисању прописано је да против аутора и одговорног уредника тужбу може поднети и свако правно лице чији је циљ заштита слобода и права човека и грађанина, као и организација чији је циљ заштита интереса група из члана 38 овог закона.

Чланом 11 Закона о дискриминацији прописано је да је забрањено изражавање идеја, информација и мишљења којима се подстиче дискриминација, мржња или насиље против лица или групе лица због њиховог личног својства, у јавним гласилима и другим публикацијама, на скуповима и местима доступним јавности, исписивањем и приказивањем порука и симбола и на други начин.

На интернет издању „Press“-а тачније „press online“, дана 02.07.2009. године, објављени су коментари на текст-интервју „Бићу геј икона“. Коментари садрже вређање упућено ЛГБТ особама, те садрже да исте треба „затворити у гето“... „стрељати их“...називају се „болеснима, који треба да се лече“... „изопаченима“. Упућују им се претње „значи биће батина“...Такви коментари и мишљења подстичу мржњу и насиље према припадницима ЛГБТ популације и њихову дискриминацију, те уједно представљају говор мржње. Тужени је објављивањем оваквих коментара прекршио забрану изражавања идеја, информација и мишљења која представљају говор мржње, у конкретном случају према ЛГБТ особама, у јавним гласилима, а у складу са чланом 11 Закона о дискриминацији и чланом 38 Закона о јавном информисању. Такође на сајту првотуженог стоји упозорење да је на њиховом порталу забрањен говор мржње, као и да такви коментари неће бити објављивани. И поред такве забране, коментари који у себи садрже говор мржње према ЛГБТ особама, објављени су од стране тужених. Имајући у виду напред наведене чињенице, суд је у смислу члана 11 Закона о дискриминацији и чл.38 ЗЈИ-у, одлучио као у ставу I изреке пресуде.

Чланом 43 тачка I Закона о дискриминацији прописано је да се тужбом из члана 41 став I овог закона, може тражити забрана вршења радње од које прети дискриминација, забрана даљег вршења радње дискриминације, односно забрана понављања радње дискриминације. Како је објављивањем напред наведених коментара, који представљају говор мржње, тужени повредио забрану изражавања истог у јавним гласилима, чиме је поступио дискриминаторски према ЛГБТ особама, суд је а у циљу спречавања понављања истих, у складу са чланом 43 тачка I, одлучио као у ставу III изреке пресуде.

Суд је одбио део тужбеног захтева тужилаца којим је тражено да се забрани туженима објављивање сличних текстова који садрже идеје, информације и мишљења којима се подстиче дискриминација, мржња или насиље против ЛГБТ особа. Наиме, чињеницу да ли су текстови дискриминаторски, те да ли у себи садрже мржњу или насиље усмерено према ЛГБТ особама, утврђује за сваки случај суд у поступку. У конкретном случају, суд је увидом у коментаре са сајта првотуженог од дана 02.07.2009. године утврдио да су дискриминаторски, те је и забранио поновно објављивање истих. Међутим, не може се одредити забрана објављивања неких будућих, апстрактних текстова, којима би се евентуално дискриминисала ЛГБТ популација, јер чињеница да ли неки текст представља

говор мржње, као и дискриминацију, суд утврђује увидом у сам текст, за сваки случај понаособ, те је из тих разлога одлучено као у ставу IV изреке пресуде.

Чланом 43 тачка 5 Закона о дискриминацији прописано је да се тужбом из члана 41 став 1 овог закона може тражити објављивање пресуде донете поводом неке од тужбе из тачке 1-4 овог члана, те како је истом утврђено да је тужени дискриминаторски поступио према првотужиоцу, као и да се истом забрањује понављање вршења дискриминаторских радњи, суд је сходно напред наведеном одлучио као у ставу V изреке пресуде.

Чланом 200 ЗОО-а прописано је да за физичке болове, за претрпљене душевне болове због умањења животне активности, наружености, повреде угледа, части, слободе или права личности, смрти блиског лица као и за страх, суд ће, ако нађе да околности случаја, а нарочито јачина болова и страха и њихово трајање то оправдава, досудити правичну новчану накнаду. Првотужилац „Геј-стрејт алијанса“ је удружење грађана, које као такво не може трпети душевне болове, па ни оне настале услед повреде части, угледа и права личности. Накнада нематеријалне штете настале услед душевних болова због повреде части, угледа и права личности, према ЗОО-у односи се на физичка лица, јер само она могу трпети душевне болове. Како је првотужилац удружење грађана, те као такво не може трпети душевне болове, суд је одлучио као у ставу VI изреке пресуде.

Поднеском од дана 01.12.2009. године, тужиоцу су повукли тужбу у односу на друготужену Поповић Иву, те је суд је сходно члану 196 став 1 одлучио као у ставу VIII изреке пресуде.

Одлучујући о приговору недостатка активне легитимације на страни првотужиоца, суд је утврдио да је исти неоснован. Чланом 39 став 2 прописано је да против аутора и одговорног уредника тужбу због повреде забране говора мржње може поднети и свако правно лице чији је циљ заштита слободе и права грађанина, као и организација чији је циљ заштита интереса групе из члана 38 истог закона. „Геј стрејт алијанса“ је удружење грађана чија је мисија заштита људских и мањинских права ЛГБТ особа. Како је објављивањем коментара на сајту првотуженог, извршена повреда забране говора мржње, и поступао дискриминаторски, у конкретном случају према ЛГБТ особама, а Геј стрејт алијанса је организација (удружење) које се бави заштитом права истих, она је и активно легитимисана у овом поступку.

Одлучујући о приговору недостатка активне легитимације на страни друготужиоца, суд налази да је исти основан. Наиме, увидом у коментаре који су остављени на сајту првотуженог, на текст „Бићу геј икона“, дана 02.07.2009. године, суд је утврдио да се ни у једном од њих друготужилац не спомиње ни именом, нити ликом, односно садржином ниједног од њих није прозван он као Борис Милићевић, председник „Геј стрејт алијансе“. Коментари садрже говор мржње усмерен према свим припадницима ЛГБТ популације, а не њему као индивидуи, те сходно томе није ни активно легитимисан у овом спору. Из напред наведених разлога, суд је одбио тужбени захтев у односу на друготужиоца.

Одлука о предлогу за одређивање привремене мера донета је у складу са чланом 44 Закона о дискриминацији. Наиме, истим је прописано да тужилац уз тужбу, у току поступка, као и по окончању истог, све док извршење не буде спроведено, може захтевати да суд привременом мером спречи дискриминаторско поступање ради отклањања опасности од насиља или веће ненадокнадиве штете. Првотужилац је у току поступка чињеницом да је на сајту туженог објављен говор мржње, односно коментари у којима се вређају припадници ЛГБТ популације, позива се на њихово стрељање, затварање у гето, батињање, учинио вероватним опасност од насиља, као и употребу силе, те у циљу спречавања истог, одлучио као у изреци решења.

Суд је ценио и остале наводе парничних странака и изведене доказе, па исте није посебно образлагао имајући у виду да исти не би утицали на другачије пресуђење у овој правној ствари.

Одлука о трошковима поступка донета је сходно одредби члана 146, 149, 150. 159 Закона о парничном поступку, те су тужиоцима признати трошкови: за састав тужбе и три образложена поднеска износ од по 5.000,00 динара, за приступ пуномоћника из реда адвоката на два одржана рочишта износ од по 6.250,00 динара, за приступ пуномоћника из реда адвоката на једно неодржано рочиште износ од 3.750,00, за таксу на тужбу износ од 34.310 динара, а све у укупном износу од 70.560,00 динара, у складу са важећом АТ и ТТ.

ПОУКА О ПРАВНОМ ЛЕКУ:

Против ове пресуде може се изјавити жалба Апелационом суду у Београду у року од 8 дана од дана пријема писаног отправака исте, а преко овог суда



Судија

Васиљ Предраг



РЕПУБЛИКА СРБИЈА
ПРВИ ОСНОВНИ СУД У БЕОГРАДУ
БРОЈ:73.П.БР.17987/2011
Дана:26.10.2011.године
БЕОГРАД
Устаничка број 14

У ИМЕ НАРОДА

ПРВИ ОСНОВНИ СУД У БЕОГРАДУ судија Јасна Тресач, као судија појединац, у парници тужиоца **Gej Strejt Alijanse, удружења грађана-невладина организација** из Београда, са седиштем у ул. [REDACTED] чији је законски заступник председник Лазар Павловић, а чији је пуномоћник Александар Оленик, адвокат из Београда, ул. [REDACTED] против туженог Драгана Марковића званог “Палма” из села Кончарева, [REDACTED] Јагодина, ради утврђења, вредност предмета спора 50.000,00 динара, ван рочишта дана 26.10.2011.године, донео је

ПРЕСУДУ – због пропуштања–

УСВАЈА СЕ тужбени захтев тужиоца Gej Strejt Alijanse, удружења грађана-невладина организација из Београда па се утврђује дискриминаторско понашање туженог Драгана Марковића званог “Палма” из села Кончарева, због тешког облика дискриминације а на основу сексуалног опредељења, одређеног у члановима 11, 12, 13 и 21 Закона о забрани дискриминације (“Сл.гласник РС” бр. 22/2009 од 30.03.2009. године) а коју дискриминацију је извршио тако што је дана 15.08.2011. године, дао изјаву новинарима писаних и електронских медија у којој наводи: “став Јединствене Србије и мој лични став је: “ми смо против сваког скупа где хомосексуалци демонстрирају улицама Београда и желе да прикажу нешто што је болест да је нормално”.

ЗАБРАЊУЈЕ СЕ туженом Драгану Марковићу званом “Палма”, из села Кончарева, да понавља извршену дискриминацију а на основу сексуалног опредељења, а како је то прецизирано ставом 1 изреке пресуде.

ОБАВЕЗУЈЕ СЕ тужени Драган Марковић звани “Палма” из Кончарева, да тужиоцу Gej Strejt Alijansi, удружењу грађана-невладиној организацији из Београда на име трошкова спора исплати износ од 10.850,00 динара, све у року

од 15 дана од дана пријема писменог отправака пресуде.

Образложење

Тужилац је тужбом поднетом овом суду дана 22.08.2011. године тражио да суд усвоји тужбени захтев како је то ближе описано у изреци пресуде. У тужби је навео да је тужени дана 15.08.2011. године, дао изјаву новинарима писаних и електронских медија у којој наводи: “мој став је познат, значи ја нисам за насиље, јесам за мирне демонстрације, али не да на улици се показује нешто што је за мене болест, хомосексуалност, тако да став Јединствене Србије и мој лични став је да смо против сваког скупа где хомосексуалци демонстрирају улицама Београда и желе да прикажу нешто што је болест да је нормално”. Даље су навели, да је чланом 46 став 1 Закона о забрани дискриминације одређено да тужбе у овом закону може поднети организација која се бави заштитом људских права односно права одређених група лица, те да је тужилац у овом поступку организација која се бави заштитом људских права односно одређене групе лица, те да сматра да је овако напред наведеним понашањем тужени прекршио више чланова Закона о забрани дискриминације, посебно члан 11 којим је предвиђено да је забрањен говор мржње и то тако што је забрањено изражавање идеја, информација и мишљења којима се подстиче мржња, насиље против лица или групе лица, због њиховог личног својства, у јавним гласилима или другим публикацијама, на скуповима и местима доступним јавности, те је тужени својим понашањем односно наведеном изјавом прекршио забрану говора мржње. С друге стране одредбом члана 12 истог закона забрањено је узнемиравање и понижавајуће поступање које има за циљ или представља повреду достојанства лица или групе лица на основу њиховог личног својства, а нарочито ако се тиме ствара страх или непријатељство, понижавајуће и увредљиво окружење, а одредбом члана 13 овог закона одређен је тешки облик дискриминације као изазивање и подстицање неравноправности, мржње и нетрпељивости по основу сексуалног опредељења што представља тешки облик дискриминације посебно ако се ово врши путем јавних гласила, те у конкретном случају лично својство односно истополна сексуална оријентација је од стране туженог представљена као болест и као нешто ненормално и то путем јавних гласила чиме је извршена тешка дискриминација од стране туженог. Одредбом члана 21 Закона о забрани дискриминације је одређено да свако има право да се добровољно изјасни о својој сексуалној оријентацији и да је дискриминаторно поступање због таквог изјашњавања забрањено, те како се тужени у својој изјави противи добровољном изјашњавању о сексуалној оријентацији, то његова изјава представља дискриминацију. Посебно су истакли да су одредбом члана 45 Закона о забрани дискриминације одређена правила о терету доказивања односно мишљења су да је тужилац учинио вероватним да је тужени извршио акт дискриминације па је терет доказивања да услед тог акта није дошло до дискриминације на туженом (тзв. променљиви терет доказивања). Предложили су да суд усвоји тужбу и тужбени захтев, а трошкове спора су тражили.

Тужилац је све писмене доказе којим се поткрепљују чињенични наводи из

тужбе доставио суду уз тужбу.

Тужени у остављеном року од стране суда није поднео одговор на тужбу, иако му је тужба уредно досављена са поуком о последицама пропуштања, па је суд применом одредбе члана 338 ЗПП-а донео одлуку као у изреци налазећи да су испуњени законски услови за ову пресуду, односно туженом је уредно достављена тужба са поуком о поседицама пропуштања, чињенице на којима се заснива тужбени захтев нису у супротности са доказима које је тужени поднео или са чињеницама које су општепознате, те како основаност тужбеног захтева произилази из чињеница наведених у тужби, а не постоје општепознате околности из којих произилази да су туженог спречили оправдани разлози да одговори на тужбу, па је суд применом цитираног члана 338 ЗПП-а водећи рачуна о одредби члана 3 став 3 истог Закона донео одлуку као у изреци пресуде.

Суд је применом одредбе члана 149 и 150 ЗПП-а признао тужиоцу трошкове поступка и то 5.000,00 динара на име састава тужбе од стране адвоката, а у складу са важећом АТ, 3.900,00 динара на име таксе на тужбу и 1.950,00 динара на име таксе за одлуку све у складу са важећом ТТ у моменту пресуђења имајући у виду опредељену вредност спора у овој правној ствари, па је донета одлука као у ставу 3 пресуде.

ПРАВНА ПОУКА:

Против ове пресуде може се изјавити жалба Апелационом суду у Београду, а преко овог суда, у року од 15 дана по пријему писменог отправака пресуде.



Република Србија
МИНИСТАРСТВО УНУТРАШЊИХ ПОСЛОВА
Дирекција полиције
Полицијска управа за град Београд
ПС Савски венац
Број: 292-613/11
30.09.2011. године
Београд

На основу члана 11. став 1. Закона о окупљању грађана ("Сл. гласник" Републике Србије број 51/92, 53/93, 67/93, 48/94, 17/99, 33/99, 29/01 и "Службени лист" СРЈ број 21/2001) Министарство унутрашњих послова Републике Србије, Полицијска управа за град Београд, Полицијска станица Савски венац, поступајући по пријави за одржавање јавног скупа и јавног скупа у покрету, сазивача Удружење "Парада поноса Београд", доноси

РЕШЕЊЕ

ЗАБРАЊУЈЕ СЕ одржавање јавног скупа и јавног скупа у покрету, сазивача Удружење "Парада поноса Београд", пријављеног за дан 02.10.2011. године са почетком од 11,00 часова у парку "Мањез".

Жалба на забрану из ст. 1 овог решења не одлаже извршење.

Образложење

Сазивач јавног скупа и јавног скупа у покрету Удружење "Парада поноса Београд" поднео је ПС Савски венац, ПУ за град Београд пријаву за одржавање јавног скупа и јавног скупа у покрету на дан 02.10.2011. године са почетком од 11,00 часова у парку "Мањез".

У спроведеном поступку по пријави утврђено је да су се стекли разлози из члана 11. став 1. Закона о окупљању грађана Републике Србије, односно да на скупу може доћи до ометања јавног саобраћаја, угрожавања здравља, јавног морала или безбедности људи и имовине.

Поука о правном леку: Против овог решења могуће је поднети жалбу у року од 15 дана Министарству унутрашњих послова Републике Србије.

Решење доставити:

- Сазивачу,
- Архиви.



КОМАНДИР ПС
самостални полицијски наредник
Владимир Поповић

BELGRADE - MAY 2012.



Gej Strejt Alijansa Gay Straight Alliance

www.gsa.org.rs