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ANNUAL REPORT ON THE STATUS OF HUMAN RIGHTS OF LGBT PERSONS IN SERBIA FOR 2014

25th March 2015; National Assembly of the Republic of Serbia

- REPORT SUMMARY-

In regards to the main conclusions of the Report, 2014 in Serbia was generally dynamic and significant for the position of LGBT people and their human rights status and there has been recorded a certain progress in this area. First of all, successful maintenance of the Pride Parade should be pointed out, but the other progresses in the relation of political factors and government institutions towards LGBT issue as well. Also, by comparing the data with those of previous years by standardized methodology, in 2014 GSA has not recorded an increase in cases of violence and discrimination based on sexual orientation and gender identity that had been reported to this organization, but, on the contrary, their slight decrease. The very structure of the reported cases shows a somewhat different trend compared to the previous year, so it has been a decrease in the number of cases of physical assault, attempted assault and threats of violence, while the number of cases of domestic violence (perpetrated by parents and other close relatives of LGBT people) and domestic violence in same-sex relationships are on the increase.

However, according to many indicators, LGBT population remains one of the social groups that are most exposed to violence and intolerance in society. In addition to the continuity of protection and improvement of existing human rights including the right of freedom to assembly, more efficient work of the institutions, better implementation of existing laws and bringing of new legislation, primarily in the area of regulation of property rights and other rights to same-sex partnerships, one of the biggest challenges in the future period, both for institutions and for the LGBT movement in Serbia, will be the work with the citizens i.e. the work on the positive social change and on increasing tolerance in the society.

For LGBT people in Serbia, the year 2014 was certainly one of the most important and dynamic in the last decade when it comes to the protection and promotion of their human rights, with some progress having been achieved in comparison to the previous period.

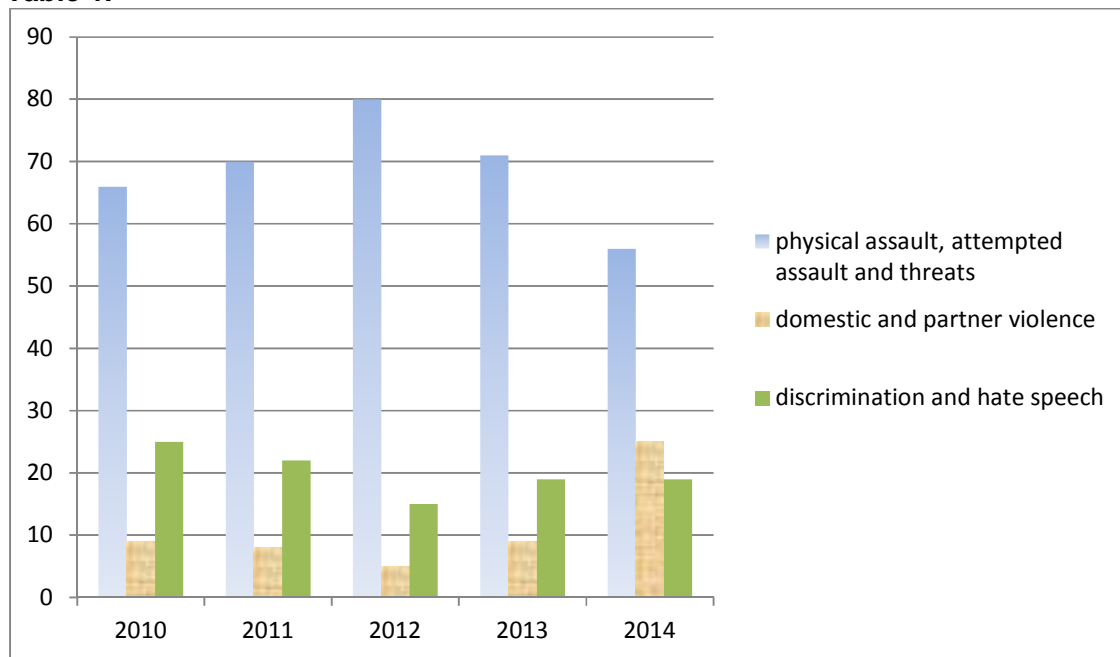
Although the LGBT population remains one of the social groups that are most exposed to violence, intolerance and hatred, as regards cases that were reported to Gay Straight Alliance in 2014 and from other available sources, **there has not been an increase in cases of violence and discrimination** against LGBT people compared to the previous year 2013, but **we can talk about a slight decline in the number of these cases**. Also, the structure of the cases by categories in which GSA follows trends (physical assault, attempted assault and threats of violence; discrimination and hate speech; domestic violence and partner violence) is somewhat changed in 2014, compared to the previous year. This refers particularly to the reduction in the number of physical assaults and attempted assaults in public places, such as

places of gathering of LGBT people, streets, parks and the like, on the one hand, and an increase in the number of cases of domestic violence and partner violence, on the other hand. Although the Republic of Serbia, as has been mentioned in previous GSA Reports, generally has an adequate legal framework to combat violence and discrimination, if this trend continues it could open a serious matter that falls within the domain of social welfare and at this time there is no specific legislation for its resolution.

Cases of domestic physical and psychological violence, i.e. violence from parents and/or other family members against those members who are LGBT, different forms of harassment and expulsion from the family home had been recorded in previous years as well, but in 2014 a part of the LGBT community was apparently empowered to also seek help and begin to talk about partner violence in same-sex relationships. These cases had represented up to ten percent of the entire category in previous years, while this year the percentage of the total number of cases increased to about 25%. GSA has recorded various forms of violence in partnerships, from the physical to the threats of "outing" to family and close friends and blackmail by the partner/partners.

The structure of recorded GSA cases in the last five years by the above-mentioned categories (percentage of total reported cases) can be seen in Table 1.

Table 1.

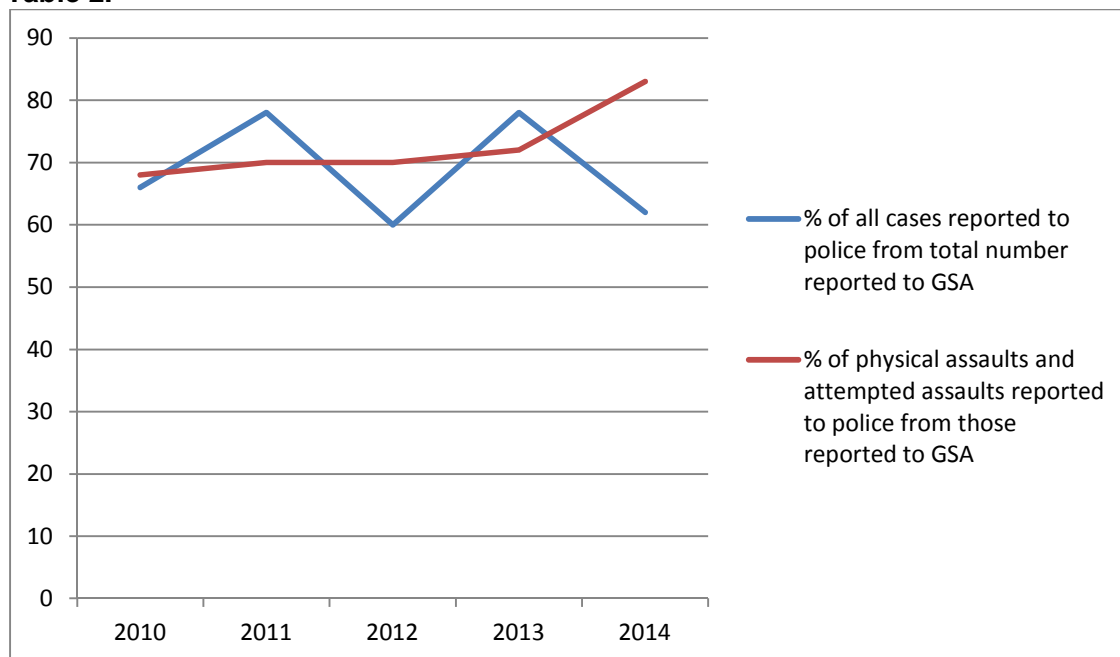


However, although the number of cases of physical assault, attempted assault and threats of violence on the basis of actual or perceived sexual orientation and gender identity are in decline compared to the previous year, in 2014 these cases still make up by far the largest share of the total number of cases reported to GSA. Unlike the cases of domestic and partner violence, they are more frequently reported to the police and/or other relevant institutions by the victims. It is also important to note that the cases of discrimination which were reported to GSA, although not the most numerous, are generally prosecuted and resolved more quickly than the cases of physical assault, and so, for example, from the total number of final court decisions

that the GSA Litigation Team has received, the largest number of cases were submitted under the Law Against Discrimination.

In Table 2, we can see comparative statistics over the past five years, which refer to the percentage of all cases (from all categories) that are reported to the police and/or prosecuted from the total number of cases that have been reported to GSA, as well as the percentage of cases in the category physical assault, attempted assault and threats of violence reported to the police from the number of cases in these categories reported to GSA. Although the percentage of the total number of cases reported to the police or prosecuted by the victims varies from year to year (and thus the decline in 2014 compared to the previous year), the number of physical assaults and attempted assaults that are reported to the police has been marking an upward trend in recent years (83% in 2014).

Table 2.



However, although for several years in a row GSA has marked a positive trend of reporting these cases to the police and the willingness of victims to talk to the relevant institutions, once again it is important to note that the largest number of cases from all categories still goes unreported, in the so-called gray zone, and neither the authorities nor civil society organizations have information about them. Therefore, it is necessary that the relevant authorities take a leading role in the systematic work on increasing the number of reported cases of violence and discrimination against LGBT people, as well as further strengthening the trust of LGBT people in the police, and in the judicial system.

One of the biggest obstacles for the improvement of monitoring and analysis of cases of violence and discrimination based on sexual orientation and gender identity remains **the lack of official national statistics**. The databases of relevant institutions file cases by type of criminal act and not by motive. It was expected that the introduction of hate crime into the Criminal Code (CC) would also lead to the establishment and monitoring of statistics relating to these cases, however, this has not yet happened.

Although the **activities of the judicial system** during 2014, based on the available data, did not show a significant increase in the dynamics of processing cases before the courts and adjudication in relation to previous years, the Serbian case law became richer in 2014 by a few final and trial verdicts in cases that were led on the basis of sexual orientation or gender identity. Of course, when talking about the dynamics of receiving court decisions in this and all other cases, 2014 was specific because there was a lawyers' strike that lasted several months, so we should keep this in mind, as well.

The Appellate Court in Belgrade made a final judgment against Member of Parliament and President of United Serbia, Dragan Marković Palma for severe discrimination against LGBT population, on the lawsuit by the GSA Litigation Team from 2011. This is the sixth final judgment which was won by the GSA Litigation Team in the last five years, related to the cases of violence and discrimination based on actual or perceived sexual orientation and gender identity. Although the duration of this and a few other legal proceedings fall within the expected speed and efficiency of the judiciary, there are also those court proceedings led by GSA which are unduly prolonged, as is for example the case against the management of Belgrade's Sava Center due to them banning a GSA conference in 2009, where the trial in this case commenced after 5 years and is still ongoing.

The Higher Court in Belgrade - Juvenile Delinquency Department issued a guilty verdict in the proceedings against two minors for stabbing and causing serious bodily injury to Angelina Žeželj in 2011. Although in this procedure, i.e. in the bill of indictment, this was connected with other numerous serious and less serious crimes committed by these juveniles, the court sentenced them only to the educational measure of increased supervision by guardianship authority and one of them also got a special obligation "vocational training according to his abilities and preferences". Given the weight of this and other acts that they were charged with, such a sentence is more than mild and enters the domain of completely inadequate judgments, regardless of the fact that they were minors.

The Appellate Court in Novi Sad made a final judgment in a private lawsuit against Predrag P. from Bečej for physical assault on LGBT activist Daniel P. in 2010, and ordered him to pay 138 thousand dinars in damages for suffered fear, physical and emotional pain.

2014 also saw the final judgment in the murder of a transgender person Minja Kočiš in 2009: the killer was sentenced to 35 and his helper to 8 years in prison.

The Appellate Court in Belgrade sentenced the leader of the extremist right-wing movement "Obraz" Mladen Obradović to four months of house arrest for spreading racial and other discrimination before the unheld 2009 Pride Parade. According to the media, Obradović began serving this sentence in July 2014. Other procedures that had been conducted ex officio before the courts against members of the groups "Obraz" and "1389" because of discrimination and attacks before the 2009 and 2010 Pride Parades, and which had received mild convictions of the first instance, have been returned to trial by the decision of the Appellate Court in Belgrade, and these procedures are still ongoing.

In 2014, there were also several first-instance and final verdicts before the High Court in Belgrade against persons who used social networks to issue threats of violence and death against members of the LGBT community. The indictments and processes against these perpetrators were led by the Special Department of the Higher Public Prosecutor's Office in Belgrade for fighting cyber crime.

As has already been mentioned in this, and in previous reports, Serbia has an adequate legal, and now also strategic, framework to combat violence and discrimination against LGBT people, but the **problem is the implementation of the law**. This problem is especially visible in the application of Article 54a of CC pertaining to hate crimes – even after more than two years since the passing of the law, there has not been a single application on any legally described basis, not just on the basis of sexual orientation or gender identity. This article of the CC states

that expressed hatred towards certain social groups as the motive of a criminal act has to be taken as a mandatory aggravating circumstance in sentencing; however, there is still an ongoing debate about whether the prosecution should include this article in their indictments or if it should be left to judges to decide. The qualification of the offenses charged by the prosecution in proceedings conducted ex officio has been a problem in a number of cases in previous years in terms of requalifying or mitigating the acts, but with the changes and amendments to the Criminal Procedure Act, this problem has become even more complex and there is an impression that the Prosecution is not yet sufficiently prepared to adequately take on new responsibilities and lead an effective investigation in criminal proceedings. It is important to note that this conclusion is based on several cases that the GSA had to try during 2014, which, due to the changed responsibilities, were not adequately and timely processed and resolved either by the police or by the prosecution.

As for better implementation of the hate crime legislation itself, it is necessary to do additional analysis of whether the existing legal solution covered by the Criminal Code is sufficient and applicable or if it is necessary to introduce further amendments to the CC in which these offenses would either be treated as qualified act or as a separate criminal act. Given that the case law relating to different acts committed against LGBT people is still being formed, systemic training of judges and prosecutors would certainly contribute to better implementation of this and other laws.

The right to freedom of assembly for LGBT people was fully respected in 2014. After being banned for three consecutive years by the relevant government institutions (from 2011 to 2013), the second Pride Parade was held in Belgrade on 28 September 2014, and, in contrast to that of 2010, it passed without incident or organized attacks on participants in the parade, both during and in the period immediately before and after. Relevant institutions headed by the Serbian Prime Minister were much more serious than previously about creating the conditions for the Parade to happen. Pride Parade 2014 is certainly a very positive milestone in support of LGBT population and their basic human rights, and the unambiguous political support of this event was also expressed through the presence of numerous high-ranking state and city officials, as well as opposition politicians. Pride Parade, i.e. the march in the central streets, was preceded by the Pride Week which included various events such as exhibits, debates, concerts, workshops, etc. In 2014 several other events, assemblies in motion, concerning LGBT people were organized in the center of Belgrade, including "Hate-free Zone," which marked June 27 - International LGBT Pride Day, as well as a protest against the attack on a German citizen, participant of a two-day international conference on human rights of LGBT persons in Belgrade, which was held on 13 September. Also, on the occasion of Valentine's Day on February 14, in the center of Novi Sad, there was a short march of LGBT people with rainbow flags and other emblems of the LGBT movement. All of these gatherings, especially Pride Parade, were secured by a strong police force, and the police continued in 2014 to protect the places of gathering of LGBT people, as well as various events that were held by the organizations involved in the promotion and protection of human rights of LGBT people.

Reducing the large number of police officers who are present in this function at the Pride Parade and other public meetings concerning the LGBT population and the exercise of their human rights is also one of the challenges in the coming period whose resolution requires years of work in many areas to reduce intolerance that still exists in society. One mechanism for this would be to pass a new law on freedom of assembly which would be in line with the European standards and the current recommendations of the Venice Commission, as well as a broader public debate that would accompany this process, given that this law affects all citizens of Serbia not just LGBT people.

The Pride Parade is, due to its visibility, an important event for the LGBT community in Serbia and it is necessary to ensure its continuity. However, Pride Parade is often in the public

mistakenly perceived as the single most important event for the LGBT population to which all other activities come second. In the coming period, it is necessary to expand the agenda for improving the status and quality of life for LGBT people, and the activities of government institutions and the LGBT movement, including the Pride Parade, should be put in the service of reducing homophobia and transphobia in society.

A large number of **state institutions** undertook activities during 2014 to improve the position of LGBT people in Serbia and the protection and promotion of their fundamental human rights, especially in relation to the organization of the Pride Parade, but also on other issues of importance to the LGBT community and society as a whole. *The Government of the Republic of Serbia*, at the suggestion of the *Office for Human and Minority Rights* adopted an Action Plan regarding the implementation of the National Strategy for Prevention and Protection against Discrimination, which was adopted in 2013, thus completing the strategic framework for combating discrimination against several of the most vulnerable social groups including the LGBT population. Those who had particularly active and affirmative roles in areas related to human rights of LGBT people in 2014 were: *Ministry of Interior*, *Minister without portfolio in charge of European integration* and her office, as well as the *National Assembly of the Republic of Serbia* largely through the action of the parliamentary *Committee for Human and Minority Rights and Gender Equality*, and also through the operation of other committees and MPs. *Head of the negotiating team for Serbia's EU accession* and the Government's *Office for Cooperation with Civil Society* also had an active role.

Ministry of Interior, in addition to working on cases of violence and discrimination and protecting gatherings, has appointed a liaison officer to the LGBT community, and in cooperation with civil society organizations has implemented the training of police personnel to work with LGBT people. *Ministry of Youth and Sport* has continued campaigning against hate speech on the Internet against different social groups, including the LGBT population. *Ministry of Justice* in drafting the Action Plan for the accession negotiations for EU for Chapter 23 has included goals and measures concerning the fundamental rights and the improvement of the position of LGBT population.

With their presence at the event, the Pride Parade was supported by numerous high government officials including the Mayor of Belgrade, Minister of Culture, Minister of State Administration and Local Self-government, Minister without portfolio in charge of European integration, Head of the negotiating team for Serbia's EU accession, Director of the Government's Office for Human and Minority Rights, the President of the Parliamentary Committee for Human and Minority Rights and Gender Equality, as well as other representatives and MPs. In addition to the officials of the ruling coalition, the Pride Parade was attended by some opposition MPs and officials from the Democratic Party, the Social Democratic Party and the Liberal Democratic Party.

In addition to the presence of the Mayor at the Pride Parade, the *City of Belgrade* collaborated with LGBT organizations during 2014 when it came to certain activities and events. Besides Belgrade, when it comes to the **activities of local governments**, it is important to point out the activities of the *City of Zaječar*, whose leaders have initiated the music festival "Tolerance Zone" which aims, among other things, to promote tolerance towards the LGBT community. However, it is noticeable that most local governments in Serbia are in no way concerned with the promotion and protection of human rights of LGBT people, although their role in this regard should be big, given that they most directly deal with citizens and their specific problems.

As for **the independent regulatory bodies**, during 2014 the Commissioner for Protection of Equality received 18 complaints on the basis of the Law Against Discrimination from citizens and organizations regarding the discrimination of the LGBT population, and made

6 opinions, 4 of which determined discrimination, while 2 did not. Commissioner for Protection of Equality did not initiate cases before the courts in Serbia under the Law Against Discrimination concerning discrimination against the LGBT population. Also, based on available data, the Ombudsman within his jurisdiction did not initiate any proceedings concerning human rights violations based on sexual orientation and gender identity. Of course, the work of these independent institutions will be analysed in a much better and more detailed way through their own reports. It is important to note that these independent institutions took a very active role in supporting the LGBT population, the Pride Parade and other activities of LGBT organizations, reacting and condemning threats and violations of human rights of LGBT persons, and similar. Commissioner for Protection of Equality, Ombudsman and the Commissioner for Information of Public Importance attended the 2014 Pride Parade.

One of the most important pillars of society is **the educational system** which, among other things, should play a crucial role in increasing tolerance and acceptance of diversity. During 2014 Ministry of Education in collaboration with UNICEF and the Provincial Secretariat for Education presented the results of studies on the prevalence of gender-based violence, which showed that 60 percent of male students and 27 percent of female students supported violence against LGBT people. In 2013/2014 school year, the Institute of Public Health of Vojvodina and the Provincial Secretariat for Sports and Youth conducted a pilot project on health education and sex education in several high schools in Vojvodina, which included an affirmative approach to information about homosexuality and acceptance of diversity.

However, despite these efforts in 2014, we can say that the educational system in Serbia is still inert when it comes to improving the human rights of LGBT people, reducing homophobia, stereotypes and prejudices. There is still no willingness to start serious and systemic solution of the problems of discrimination and violence against LGBT people in schools, and Ministry of Education and other relevant institutions still have not started removing the homophobic content from high school textbooks, even after several years since this was initiated.

In the area of **social welfare** important steps were made during 2014. Social workers in all Serbian social service centers are sensitized and trained to operate and provide social protection to LGBT people and their families, and now in each center there are contact persons where LGBT people and their families can turn to for help and advice in the process of coming out, because of family problems, and for other services in the field of social welfare.

In the area of **health care** there were some developments during 2014. Ministry of Health has officially established the Cabinet for Transgender Conditions at the Belgrade Hospital Center, which greatly simplifies the complex sex-change procedure for all transsexuals. However, authorities in the health sector still speak infrequently in public about homosexuality in an objective way, which is a very important mechanism for the suppression of the greatest prejudice in Serbia about LGBT people, and that is that they are sick. There are still recorded cases of individual doctors-psychiatrists who voice negative attitudes about homosexuality, which is not only potentially discriminatory against patients who are LGBT people, but also jeopardizes effective prevention of health conditions that can occur as a consequence of the rejection of LGBT people from their surroundings.

The attitude of **political parties** towards the LGBT population in 2014, in addition to the Pride Parade was most evident during the campaign for the parliamentary elections held in March 2014, during which GOTV campaign "Your vote, your tomorrow" was conducted. The aims of the campaign were to make political parties and groups that participate in national elections speak out on issues related to human rights of LGBT people, and to have them

include these issues and concrete solutions for reducing violence, discrimination and homophobia in their election platforms. Through this campaign, and compared to previous elections, there is a greater number of parties that have an affirmative attitude towards the LGBT community and that publicly speak about it during the election campaign. When talking about the support for LGBT human rights, we are definitely no longer talking about one or two political parties, as was often wrongly perceived so far, but a group of them that have a positive attitude towards the LGBT population, that do not perceive LGBT issue as unimportant, that have awareness that the LGBT community is part of the electorate, and that pay them consistent and more or less strategic attention. Most of those represented in the current make of the Parliament are in this group of political parties.

However, the problem of the lack of clearly defined anti-discrimination party policies included in party programs and other documents requires a broader intra-party debate and amendments to existing programs in accordance with the ideologies of the political parties. Of the 21 political parties currently represented in parliament, only 3 mention LGBT population in their party programs: the Socialist Party of Serbia (SPS), the Democratic Party (DS) and the League of Social Democrats of Vojvodina (LSV).

Unfortunately, there were no out LGBT people on any lists of candidates for the parliamentary election 2014, i.e. those that in addition to meeting the criteria for existing party nomination are also publicly out as LGBT. Also, the SPS is still the only political party who has an out politician in its ranks.

During 2014, several **threats and attacks on LGBT human rights activists** were again recorded. In March and April, Gay Straight Alliance, through its SOS phones and organization e-mail, received several threats, some of which were very brutal death threats. The day after the Pride Parade, buildings near the family home of Predrag Azdejković, president of the Gay Lesbian Info Center, were plastered with posters of his interview accompanied by calls for the lynching of this activist. In addition, his house has been stoned several times in the past few years. The relevant prosecutor's office rejected this report as unfounded, just like the report in the case of telephone threats to GSA.

The **media** continued to report on issues relevant to LGBT people and on the activities of the LGBT movement, with the 2014 Pride Parade still the most visible media event. Although the media image of the LGBT population has visibly improved in recent years and hate speech is significantly reduced, some media continue to treat this issue sometimes in a sensationalist way, without respecting the Code of Journalists of Serbia. Although it is not allowed according to the Law Against Discrimination, some media, mainly tabloids, speculate about the sexual orientation of certain public figures, usually in order to discredit them in public. Also, some Internet portals continue to publish reader comments containing hate speech against LGBT population. The appeals committee of the Press Council has increased its activity and made decisions in the area of the journalistic code violations when it comes to the LGBT population. With the adoption of new laws on media, there are further specified provisions concerning the prohibition of hate speech and discrimination based on sexual orientation and gender identity in the media.

The human rights of LGBT people remained in 2014 an **important segment of the policy of EU institutions** and other international organizations and bodies. The report of the European Commission (EC) on Serbia's progress towards the EU from October emphasized that the Pride Parade was held in Belgrade, which was an important milestone in the protection

of human rights in Serbia, not only for the LGBT population, but in general, but it also noted that public officials rarely condemn and often do not respond to threats, physical assaults and hate speech against activists of non-governmental organizations. The report also states that the legal framework for the protection of fundamental human rights is set, but that the biggest problem is still the inconsistency in its implementation at different levels and in different areas of social life. The EC Report did not, however, devote much space to analysing the political, legal and social status of the LGBT population. The international community present in Serbia, especially the EU Delegation in Serbia, the embassies of the USA and the EU countries continued to support the LGBT population and the improvement of their human rights, as well as the activities of the LGBT movement.

In the field of **culture and art**, 2014 was varied when it comes to LGBT issues. The famous film festival "Fest" in their selection included several LGBT-themed movies. In addition to the aforementioned Pride Week, at the end of the year there was also the 6th International LGBT Film Festival "Merlinka" in Belgrade Youth Center, as well as the Festival of Tolerance, whose film repertoire included awarded films with LGBT themes. The organization IDAHO Belgrade also arranged screenings of LGBT films and exhibits in the middle of the year, while Hartefakt Foundation presented the book "Among Us: Untold stories of gay and lesbian life" on the history of homosexuality in the territory of Serbia and former Yugoslavia.

Although some progress has been made in various areas, notably in establishing the legal framework and better relations of institutions and political factors, **the attitude of society** towards the LGBT population, the level of tolerance and acceptance of diversity are still far from satisfactory, which makes this social group one of the most vulnerable and potentially very exposed to violence and discrimination. According to regular surveys conducted by the Office of the Commissioner for Protection of Equality, the group that is most prominently showed social distance from the majority of the society is the LGBT population. Stereotypes and prejudice against this population are still at a very high level, among which is still the most common prejudice that LGBT people are sick, which about 50% of the citizens believes. Right-wing extremist organizations and groups announced themselves during the year by denying that the LGBT population had rights, but there was no large-scale organized violence, such as, for instance, the 2010 Pride Parade. Opponents of the 2014 Pride Parade, led by the group "Dveri" organized a protest rally and walk in the center of Belgrade the day before the Pride march. After the 2014 Pride Parade the Serbian Prime Minister was the subject of verbal attacks by a football fan in a match broadcast live by RTS, who called him by a pejorative name for a gay person.

However, during 2014 some very positive reactions from citizens were recorded on the activities of the LGBT movement, especially relating to those during the catastrophic floods that occurred in Serbia, when the LGBT movement canceled and delayed planned events, including Pride Parade, and when LGBT organizations and communities joined a large number of citizens in collecting aid for those affected by the floods and volunteering in shelters and on the construction of the dam. Also, the Hate Free Zone assembly passed without adverse reactions and with a great support of citizens who were in the vicinity.

Of great importance for the improvement of public attitudes was the act of Marija Šerifović, singer and winner of Eurovision Song Contest 2007, who spoke about her different sexual orientation in her book Confessions.

Bearing all this in mind, one of the biggest challenges in the future, both for institutions and for the LGBT movement in the process of improving the status and quality of life of LGBT people will precisely be working with the citizens of Serbia, i.e. working on positive social change and on increasing tolerance in society.

In addition to independent experts and authors from GSA, the preparation of the Report on Human Rights of LGBT People in Serbia in 2014 also involved representatives of other LGBT human rights organizations. Also, in the preparation of the report we used data from the archives of GSA, the data available from reports of other civil society organizations, media reports, reports of local and international institutions and organizations, as well as the contributions which were submitted to the Alliance by various state institutions and associations for the purposes of this Report.

The Report includes key information and conclusions in the opinion of GSA.

The focus of the Report, as in previous years, is the presentation of the most important documented cases of violence and discrimination out of those that were reported to GSA during the year, as well as those cases which were processed by the GSA Litigation Team before the courts in Serbia. These cases are presented in the report by the constitutional categories. In addition, for the purpose of this report GSA in cooperation with the Ministry of Interior defined the status of a number of reported cases in the category of physical assault, attempted assault and threats of violence, i.e. how far along they are towards solving them.