

**European Region of the
International Lesbian and Gay Association**

**Submission to Council of Europe DH-DEV Group
"Action to improve the protection of human rights defenders and
promote their activities"**

**The need for inclusion of specific reference to
lesbian, gay, bisexual and transgender human rights defenders
in the proposed Declaration on Human Rights Defenders
by the Committee of Ministers**

August 2007

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Executive Summary

1. Heads of State and Government meeting in Warsaw during their Third Summit in 2005 made a commitment to “play a dynamic role in protecting the rights of individuals and promoting the invaluable engagement of non-governmental organisations, to actively defend human rights”.

2. Lesbian, gay, bisexual and transgender (LGBT) human rights defenders face serious obstacles and dangers in many countries. At the root of these obstacles is the refusal by many persons in positions of authority and influence to accept that fundamental human rights apply to all persons, regardless of their sexual orientation or gender identity.

3. This report documents the climate of intolerance and the homophobic speech and violence experienced by LGBT human rights defenders. It also gives examples of attempts to deny fundamental rights, including freedom of association, assembly, and expression, and of failure by state actors to provide support.

4. In "promoting the invaluable engagement of non-governmental organisations", the Council of Europe has a key role to play in emphasising the legitimacy of LGBT human rights defenders and their organisations and in so doing, to reduce the dangers to which they are exposed and ensure the unimpeded exercise of their fundamental rights.

5. The inclusion in the proposed Declaration of a paragraph referring to vulnerable minorities, and making specific reference, amongst others, to LGBT human rights defenders, would make an important contribution in this respect.

1 Introduction

6. The specific difficulties faced by LGBT human rights defenders were emphasised by the United Nations Special Rapporteur on Human Rights Defenders in a recent report:²

“94. Since the establishment of the mandate, the Special Representative has acted on 36 cases of alleged attacks and threats against defenders of LGBTI³ rights in all regions.

95. Defenders have been threatened, had their houses and offices raided, they have been attacked tormented by regular death threats A major concern in this regard is an almost complete lack of seriousness with which such cases are treated by the concerned authorities.

² *Report of the Special Representative of the Secretary-General on the situation of human rights defenders* - Ms. Hina Jilani - A/HRC/4/37

<http://daccessdds.un.org/doc/UNDOC/GEN/G07/104/17/PDF/G0710417.pdf?OpenElement>

³ LGBTI = lesbian, gay, bisexual, transgender and intersex

96. In numerous cases from all regions, police or government officials are the alleged perpetrators of violence and threats against defenders of LGBTI rights. In several of these cases, the authorities have prohibited demonstrations, conferences and meetings, denied registration of organizations working for LGBTI rights The authorities have generally attempted to justify action against these defenders by arguing that “the public” does not want these demonstrations to take place, or these organizations to be registered, or that “the people” do not want LGBTI people in their community.”

7. While the above comments reflect cases from all regions of the world⁴, as this paper will demonstrate, many of the types of violations referred to take place within Europe. Moreover, the Special Rapporteur's comment regarding the "almost complete lack of seriousness with which such cases are treated by the concerned authorities" certainly applies on some occasions, as does the way in which some authorities justify their actions by reference to the wishes of "the public" or "the people".

8. In his conclusions to the Council of Europe colloquy on "Protecting and Supporting Human Rights Defenders", the Council of Europe Commissioner for Human Rights recognized the particular difficulties faced by some categories of defender:

"Defenders working on equal human rights for all, regardless of their perceived sexual orientation or gender, rights of migrants, and those defending the rights of national minorities or women's rights often face particular difficulties in their activities as is demonstrated by examples of restrictions on the right to peaceful assembly."⁵

9. In its recent judgment regarding the banning of the 2005 Warsaw Equality March, the Court of Human Rights reiterated its view that

"a genuine and effective respect for freedom of association and assembly cannot be reduced to a mere duty on the part of the State not to interfere..... There may thus be positive obligations to secure the effective enjoyment of the freedoms. **This obligation is of particular importance for persons holding unpopular views or belonging to minorities, because they are more vulnerable to victimisation**".⁶ (Our emphasis)

10. We suggest, with respect, that the reasoning behind the Court's statement of the need for national authorities to act positively to support persons holding unpopular views or belonging to minorities is applicable also in the context of a Declaration by the Committee of Ministers on human rights defenders, and justifies specific reference to such groups.

11. In the rest of this report we outline some of the obstacles which LGBT human rights defenders in many countries in Europe face. The information presented does not purport to be comprehensive. There is currently no institution charged with documenting discrimination on the basis of sexual orientation and gender identity across the 47 member states of the Council of Europe.

12. In recent years attempts to exercise the right to freedom of assembly have illustrated the strong and extensive opposition which LGBT human rights defenders face in a number of Council of Europe member states. Included as an attachment to this report is a summary from another report prepared by ILGA-Europe: *Lesbian, Gay, Bisexual and Transgender Rights -- Freedom of*

⁴ 7 of the 17 states which received Communications regarding LGBTI human rights defenders were in Europe -- Belarus, the Holy See, Latvia, Moldova, Poland, Russia, Turkey

⁵ *Conclusions of Council of Europe Commissioner for Human Rights, Mr Thomas Hammarberg- Council of Europe colloquy on „Protecting and Supporting Human Writes Defenders“* Strasbourg, 13-14 November 2006 - CommDH(2006)19

⁶ *Bączkowski and Others v. Poland* - (Application No. 1543/06)

Assembly -- Diary of Events by Country ("The Freedom of Assembly Report"). The key findings of this report are referred to in the text which follows.⁷

2. Climate of intolerance

13. In many countries in Europe LGBT human rights defenders work in the face of a high degree of intolerance. This intolerance is not confined to extremist groups, but is expressed in public homophobic language and actions by mainstream politicians and faith leaders, and reflected in the attitudes and actions of many agents of the state, and indeed, throughout society more generally.

14. This climate of intolerance conditions many aspects of the work of LGBT human rights defenders:

- Violence is a constant concern. It inhibits the conduct of public events. It bears upon individual, publicly known, human rights defenders, and deters many others from acting openly, or even from becoming involved in working for their rights.
- The legitimacy of their work is frequently not recognized and is regularly attacked and undermined.
- Public authorities often act in an unapologetically discriminatory manner.
- Private businesses can be reluctant to provide services.

15. Moreover those in positions of leadership sometimes fail to give a lead in condemning homophobic language and actions. For example, in Serbia, in July 2004 a right-wing group, *Obraz*⁸, launched a homophobic poster campaign across the country. The posters, which bore the slogan "Better Prevention than Cure (Better safe than sorry)", and which were illustrated with mock road signs suggesting that same-sex couples should be prohibited, were implicitly threatening. The campaign was apparently launched in response to a "Long Live Diversity" campaign by the lesbian group *Labris* in the town of Zrenjanin on 24 June. On 13 July, JM, the only publicly known lesbian in the town, had begun receiving threatening SMS and e-mail messages. Graffiti reading "For Serbia with no fags", and "Fags are not humans" were painted on the walls of a woman's education centre.

16. On 25th July eight LGBT human rights defender groups in Serbia sent an open letter to government officials, including the Minister for Human and Minority Rights, expressing concern at their silence in the face of the *Obraz* campaign, pointing out that the posters were an implicit call for the lynching of LGBT people, and demanding they make a public statement against homophobia. By mid October 2004 no reply had been received.⁹ *Labris* later reported that a deputy public prosecutor in Belgrade had decided that there were no grounds for bringing criminal charges against *Obraz*.¹⁰

3 Homophobic speech used in opposing the work of LGBT human rights defenders

⁷ The complete report is available at www.ilga-europe.org

⁸ *Obraz* was one of the groups behind the attacks on the first Belgrade Gay Pride march in June 2002 – see the *Freedom of Assembly Report* – 10.10

⁹ *Serbia: Official silence greets homophobic poster campaign* - Amnesty International -- Press Release 15 October 2004

¹⁰ *Homophobic, Anti-Semite and Racist Graffiti* - *Labris* - press release -- 7 April 2005

17. A recent report, *Homophobic Speech in Latvia: Monitoring the Politicians*¹¹, analysed homophobic speech by politicians in Latvia between May 2005 and July 2006. It found that the most frequently used themes in such speech were family values and morality, a conspiracy to "homosexualise" society, homosexuality as an illness, and homosexuality as contravening Christian principles. Nationalism and the supposed role of homosexuality in contributing to demographic decline were two further important themes. Language which renders LGBT people as less than human was also a significant concern.

18. While similar studies have not been conducted elsewhere, these themes feature in homophobic speech by politicians and faith leaders in many countries.

19. *The Freedom of Assembly Report* lists numerous instances of the use of such language. Some examples are:

- The former Mayor of Warsaw, Lech Kaczynski: "Organising a gay parade on that day is a joke. I am for tolerance, but am against propagating gay orientation." Such an event would be "sexually obscene" and offensive to other people's religious feelings.
- The former Prime Minister of Poland, Kazimierz Marcinkiewicz: "if [a homosexual person] person tries to infect others with their homosexuality, then the state must intervene in this violation of freedom".
- The Mayor of Moscow, Yuri Luzhkov: "last year, Moscow came under unprecedented pressure to sanction the gay parade, which can be described in no other way than as Satanic".
- Cardinal Pujats of Riga: "In Soviet times we faced atheism, which oppressed religion; now we have an era of sexual atheism. This form of atheism is even more infectious and dangerous -- spiritual values disappear in a swamp of sexual irregularity."
- The Chief Mufti of Russia's Central Spiritual Governance for Muslims, Talgat Tajuddin: "The Parade should not be allowed and if they still come out into the streets, then they should be bashed."
- Patriarch Alexi II of Moscow and All Russia: "There is another side of this vicious asocial phenomenon. Russia is living through a demographic crisis. I am convinced that gays' desire to organise a parade in Moscow will not help strengthen the family as the foundation of a strong state".

20. Proposals for the legal recognition of same-sex relationships have also frequently met with homophobic language. For example:

- The All-Ukrainian Council of Churches and Religious Organisations commented that this "ends in abyss. Where prostitution and drug addiction, same-sex marriages and euthanasia are legalised, there is already a question about the legalisation of paedophilia." Demographic crisis and spiritual degradation follow, and "extinction threatens the native population of these countries".¹²
- Opposing same-sex marriage in 2005, Cardinal Alfonso López Trujillo said parliaments which "open the way for same sex 'marriage' . . . destroy piece by piece the institution of the family, the most valuable heritage of peoples and humanity." Catholics had a duty to protest against this kind of law and "refuse to comply with this crime which represents the destruction of the world."¹³

¹¹ Published by Mozaika, an Alliance of Lesbian, Gay, Bisexual and Transgendered Persons and their Friends in Latvia -- February 2007

¹² *Report on the Situation of Homosexuals in Ukraine in 2006* – Nash Mir (Our World) Gay and Lesbian Centre

21. Homophobic language is even used in some countries by parliamentarians whose role would suggest a particular duty to support human rights and to work with human rights defenders:

- Latvia: Jānis Šmits, Chairman of the Human Rights and Social Affairs Commission of the Latvian Parliament, is notorious for his homophobic comments. One of many examples is: "I think every one of you deputies has received these kinds of pamphlets, on the last page you have had the opportunity to familiarise yourselves with what the Bible says about homosexuality..... Leviticus chapter 20 says: 'If a man sleeps with a man as with a woman, they have both committed an abomination. They must be put to death; their blood is on their own hands.' (Leviticus)"¹⁴
- Ukraine: Leonid Grach, Chairman of the Committee on Human Rights of the Ukrainian Parliament: "Me and my colleagues in the Parliament have to defend society from infringements upon morality ...The state must protect society from an evil, from violence, including such evil as homosexuality, lesbianism and such like others".¹⁵

4 Examples of specific obstacles faced by LGBT human rights defenders

4.1 Violence and threats of violence

22. *The Freedom of Assembly Report* summary (see Attachment I) lists 20 occasions in nine countries where events organised by LGBT human rights defenders have been met by violent counter-demonstrations. The first attempt to hold a Pride demonstration in Belgrade, in 2001, resulted in 48 persons being injured. Violence continues to be a problem to the present day, with Pride marches in Zagreb and Budapest in July 2007 coming under attack from extremists. In Budapest a lorry carrying a carnival float was set on fire by a Molotov cocktail. In Zagreb police intervened just in time to prevent Molotov cocktails being thrown, but after the march, when the police were no longer present, 14 people were injured in attacks.

23. Croatia -- February 2007: activists of the Forum for Freedom in Education found a note on their doorbell saying: "Death to the faggots, Soros". Similar incidents were reported from some other human rights organisations.¹⁶

24. Croatia – July 2007: in the days following the Pride March, one of the organisers, Franko Dota, received three text messages with death threats. Three days after the march he was recognized and attacked by several people. Another Pride organiser, Viktor Zahtila, was recognized and attacked the following day.¹⁷

25. Montenegro -- November 2004: Montenegro's first LGBT rights organisation, Free Rainbow, was launched at a seminar. Plans to announce the organisation to the public in a press conference had to be cancelled, following threats to the organisers of the event from a football supporter organisation, Varvari. Frustrated, Varvari members beat up two gay men. They then tracked down two representatives of Free Rainbow at a television studio, where they were giving an interview. Police intervened, protecting them, and arresting some of the football fans.¹⁸

¹³ *Top Vatican Cardinal: Gay Marriage is "A Crime Which represents the Destruction of the World"* – LifeSiteNews.com – May 3, 2005

¹⁴ *Homophobic Speech in Latvia: Monitoring the Politicians* - Mozaika - February 2007

¹⁵ Statement made on February 9, 2007. Nash Mir (Our World) Gay and Lesbian Centre media release

¹⁶ *Documenting Hate Crimes against LGBT persons in the Republic of Croatia* - The Legal Team of Iskorak and Kontra

¹⁷ *Short report on violence during and after the Zagreb Pride 2007* - Zagreb Pride 2007 -- 13 July 2007

¹⁸ *Hooligans threatening LGBT's in Montenegro* - Free Rainbow -- media release -- 30 November 2004

26. Serbia -- 22 January 2007: Two Women in Black activists were attacked by three skinheads in central Belgrade at 12.30 in the morning. They were returning from a youth cultural centre where they were awaiting the results of the parliamentary election. One of the attackers reportedly shouted "See that faggot. I know you. You are part of Women in Black. Because of you, I have a criminal record.". After the attack the police were called. Instead of coming immediately, they said they would come the following day to take statements.¹⁹

4.2 Denial and attempted denial of the right to freedom of association

27. Russia -- December 2006: Russian Federation Ministry of Justice officials denied registration to an LGBT group in Tyumen called " Rainbow House ". The rejection letter explained, "The objectives of the organisation are aimed at protecting personal rights and liberties, including persons of non-traditional sexual orientation." It held that these objectives "can undermine the security of the Russian community and the state," because "they undermine spiritual public values" and "undermine the sovereignty and territorial integrity of the Russian Federation due to reduction of the population."²⁰

28. Turkey -- there have been attempts to deny legal registration to every LGBT human rights defender organisation that has sought such recognition, and in one case these are ongoing.²¹

- September 2005: Ankara's deputy governor requested the courts to order the closure of the Kaos Gay and Lesbian Cultural Research and Solidarity Association, on the ground that the words "gay" and "lesbian" in its title and its purposes violated the Turkish Civil Code, which prohibits associations against "law and morality". The Ankara public prosecutor rejected the request.
- May 2006: the Governor's office of the province of Bursa demanded the closure of the Rainbow Association. In October 2006 the demand was rejected by the public prosecutor.
- November 2006: the public prosecutor rejected an official demand to ban the newly founded Pink Life LGBT Association in Ankara.
- July 2007: following the rejection in February 2007 of his demand that the public prosecutor refuse to register Lambda Istanbul Lesbian, Gay, Bisexual, Transvestite and Transsexual Solidarity Association, on the grounds that its name and objectives were offensive to Turkish moral values and its family structure, the Governor of Istanbul appealed to the Beyoglu Central Court of Justice to reject registration. At the time of writing the court case is ongoing.²²

4.3 Denial of the right to freedom of assembly

29. In recent years marches, demonstrations or other public events organised by human rights defenders in support of LGBT rights or involving LGBT organisations have initially been banned by city authorities on 18 occasions in six different countries - Latvia, Lithuania, Moldova, Poland, Romania and Russia (see *The Freedom of Assembly Report* summary, Attachment I).

30. In Moldova the Chisinau city authorities have banned no fewer than six such events. A detailed report prepared by ILGA-Europe²³ leaves little doubt that Moldova's main LGBT human rights defender, GenderDoc-M, has been the victim of a two-year campaign by elements in the city

¹⁹ *Report of the Attack against Women in Black Activists* - Women in Black press release -- January 22, 2007

²⁰ *We Have the Upper Hand* - Human Rights Watch and ILGA-Europe -- June 2007

²¹ *An overview of issues faced by lesbian, gay, bisexual and transgender people in Turkey* – Kaos GL, February 2007

²² *The first trial against Lambda Istanbul Solidarity Association is on July 19, 2007!* - Lambda Istanbul media release -- 15 July 2007

²³ *Moldova: Comprehensive denial to Moldova's principal LGBT organisation of the right to freedom of assembly* – ILGA-Europe - 19 November 2006 – available at: http://www.ilga-europe.org/europe/guide/country_by_country/moldova/comprehensive_denial_to_moldova_s_principal_lgbt_or_ganisation_of_the_right_to_freedom_of_assembly

authorities, the police, and other arms of government. This has included such surprising measures as banning a youth march organised in the framework of the Council of Europe *All Different/All Equal* programme by the Ministry of Education and Youth and the National Youth Council of Moldova merely because GenderDoc-M was to be an official participant.

4.4 Denial of the right to freedom of expression

31. Access by LGBT Human Rights Defenders to educational institutions is an important means of counteracting homophobic teaching and of addressing homophobic attitudes amongst school students. In some countries there have been attempts to deny such access. While many of the initiatives to this end described below have not as yet passed into legislation, the mere attempt to introduce such legislation would be likely to inhibit many school authorities when considering applications by LGBT organisations to visit their school.

Lithuania

32. 2006: a group of members of Parliament introduced an amendment to the "Law on the Protection of Minors against Detrimental Effect of Public Information", which would categorise information that related to the "propagation" of homosexual relations as having a detrimental effect.²⁴

Poland

33. July 2007: following a recent visit to Poland, the Council of Europe Human Rights Commissioner commented on the chapter on homosexuality in an educational manual for young teenagers: "The portrayal and depiction of homosexuality is offensive, out of tune with principles on equality, diversity and respect for the human rights of all.....". The Polish government is promoting a social and legal climate in which it is impossible for LGBT human rights defender organisations to counteract such views:

"In early 2006, the Polish version of "Compass – Human Rights Education with Young People", a Council of Europe anti-discrimination handbook and a manual on Human Rights for young people, was withdrawn from circulation by the Ministry of Education. On 8 June 2006, the Minister for Education dismissed the director of the National In-Service Teacher Training Centre (CODN), Mirosław Sielatycki, for having published the Compass handbook. The reason given for his dismissal was that the contents of the chapter on homosexuality was in contradiction with the core curriculum for general education and that the publication contained statements aimed at promoting homosexuality in schools."²⁵

Apparently just five paragraphs of the 500 page textbook address homosexuality. One of those to which the authorities objected was a suggestion to "contact gay or lesbian organisations in your country and invite one of their representatives to address your group and find out which issues of equality and rights are the most pressing in your own country".²⁶

34. In May 2006 the Vice-Minister of National Education, Mirosław Orzechowski, accused Poland's main LGBT organisation, Campaign Against Homophobia, of "moral corruption of teenagers" in its "Do We Need Gender?" project. This was a youth exchange project financed by the European Commission's Youth Programme, a priority of which is "to overcome prejudices and stereotypes rooted within young people's mentality and culture". The aim of the project was to

²⁴ *Lithuania: no right to inform minors about homosexuality?* - www.atviri.lt - distributed on Euroqueer e-mail list on 10 October 2006

²⁵ *Memorandum to the Polish Government - Assessment of the progress made in implementing the 2002 recommendations of the Council of Europe Commissioner for Human Rights* - CommDH(2007)13

²⁶ *Situation of bisexual and homosexual persons in Poland - 2005 and 2006 report* - Campaign against Homophobia/Lambda Warsaw Association -- March 2007 -- edited by Marta Abramowicz

counteract sex and sexual orientation-based prejudices and stereotypes. The Ministry of National Education's inspector's report stated clearly that the inspection had positive results, and the project had been highly graded.²⁷

35. On 26 September 2006 the Campaign against Homophobia's application for another grant under the Youth Programme -- that for the training of a volunteer in a Swedish NGO -- was rejected on the following grounds: "The project submitted by the organisation is inconsistent with the Ministry of National Education's policy in the scope of education of children and teenagers. The policy of the Ministry does not accept any support for actions promoting homosexual attitudes and behaviours among young people. Moreover, it is not the role of the Ministry to support homosexual organisations or to co-operate with them".²⁸

36. On 13 March 2007 the Ministry of Education announced a legislative proposal which would "prohibit the promotion of homosexuality and other deviance" in Polish schools.²⁹ The Minister of Education, Roman Giertych subsequently explained that the reason for the proposal was that "organisations which deal with the propagation of homosexuality will not have access to schools".³⁰

Russia

37. 2005 – Parliamentary deputy Alexander Chuev put forward a Bill denying teaching positions or other rights in public life to anyone engaging in "propaganda of homosexuality", whether through "a public speech, work displayed in public, or mass media, in particular including public demonstrations." Although the Bill ultimately failed, it gained the support of over one fifth of the 450 member Duma.³¹

38. May 2006: in the Ryazan Region, the Regional Offences Act was amended to include a new offence: "Section 3.13 -- public actions oriented to propaganda of homosexuality (male and female) among minor children".³²

Turkey

39. July 2006: Issue 28 of Turkey's only LGBT magazine, published by Kaos GL, its principal LGBT organisation, was confiscated by the police, following legal action by the public prosecutor in Ankara under a law on "protection of general morality". The magazine contained a serious discussion of pornography, and two photographs of paintings by a recognized artist which had already been exhibited publicly. Kaos GL is currently challenging the seizure of its magazine at the European Court of Human Rights.³³ The editor was also prosecuted for publishing obscene images, for which the penalty under Turkish law is imprisonment for between six months and three years.³⁴

4.5 Failure of state institutions to support LGBT human rights defenders

4.5.1 The courts

²⁷ Ibid

²⁸ Ibid

²⁹ *School bill would violate students' and teachers' rights and reinforce homophobia* - Amnesty International -- Public Statement -- Poland: – AI Index EUR 37 / 001 /2007

³⁰ *Giertych bans entry of homosexual organisations to schools* - www.gazeta.pl - 16 May 2007

³¹ *We Have the Upper Hand* - Human Rights Watch and ILGA-Europe -- June 2007

³² *Declaration on the violation of the right to freedom of expression in Russia* – March 26 2007 – signed by members and partners of the LGBT Network Russia

³³ *An Overview of Issues Faced by Lesbian, Gay, Bisexual and Transgender people in Turkey* - Kaos GL - February 2007

³⁴ He was found not guilty, because seizure of the entire print run by the police meant that the magazine had not been "published".

40. *The Freedom of Assembly Report* summary lists ten occasions on which courts, in three countries, have failed to uphold the right to freedom of assembly. In Russia a series of rulings in various courts, up to the Supreme Court, has upheld the ban on the 2006 Pride March. In Moldova, courts have supported bans on four occasions, although recently the Supreme Court, having upheld the ban on the 2005 Pride March in October 2006, reversed its position two months later with regard to the 2006 Pride March.

41. *The Freedom of Assembly Report* summary also lists occasions when courts and/or public prosecution services have failed in other ways. By 2004 the authorities in Serbia had still failed to prosecute the organisers of the attacks on 2001 Belgrade Pride March, despite the fact that they had posted threats regarding the march at their website. In September 2006 the Tverskoi District prosecution department decided not to prosecute German parliamentarian Volcker Beck's attacker during the 2006 Moscow Pride event, despite his admission in the Russian edition of *Newsweek* that he had carried out the attack.

4.5.2 The police

42. *The Freedom of Assembly Report* summary lists nine occasions in six countries when police have failed to provide adequate protection to participants in LGBT freedom of assembly events. It also lists seven occasions in four countries when police have broken up, prevented, or tried to prevent, peaceful demonstrations, and three others where police have attempted to obstruct plans to hold peaceful assemblies through unreasonable procedures, or have behaved in a discriminatory fashion towards Pride participants.

43. Other examples of police failing to support LGBT human rights defenders are:

- Kosovo - May 2007 – Korab Zuka, leader of the Centre for Social Emancipation, an LGBT organisation, received a letter cursing him for his activities, and calling for his family to prepare his funeral within two weeks. He reported the case to the police, who refused to open an investigation because it was not considered a serious case.³⁵ He is now seeking asylum abroad. In an interview he commented that his public profile led to unbearable pressures and a series of threats. "It was very frightening to live there [in Kosovo] as a gay person. You always had the fear that someone would come up and kill you. At least here I can walk down the street without looking around to see who is behind me".³⁶
- Poland - October 2005 - Katarzyna Hejna, a member of Campaign against Homophobia, who was actively involved in organising the Torun Equality March, found herself the subject of threats and intimidation by a group calling themselves "Redwatch", which had established a website identifying people who they claim were "engaged in anti-fascist, anti-racist activities all kinds of supporters and activists of broadly understood homosexual lobby[ing]". Her personal details, including photographs, her name, telephone number and e-mail address were all published on the website. Since publication, she had received threatening e-mails and had been verbally harassed in the street. She had made a written statement to the police, but was not aware of any progress with regard to her case. It was reported that an individual, who was named on the "Redwatch" website, had been stabbed on the Warsaw subway in June 2006.³⁷

³⁵ *Serious death threats to leader of QESh* - Press release by the Center for Social Emancipation (QESh) and the Youth Initiative for Human Rights - 24 May 2007

³⁶ *Persecuted Gays Seek Refuge in U.S.* - Washington Post - July 10, 2007; a later report suggests the police did eventually look into the case: *Gay Times – This isn't New York* – September 2007 edition

³⁷ *Report of the Special Representative of the Secretary-General on the situation of human rights defenders* - Ms. Hina Jilani - A/HRC/4/37

<http://daccessdds.un.org/doc/UNDOC/GEN/G07/104/17/PDF/G0710417.pdf?OpenElement>

- Serbia, April 2007: T.P. of Surcin, Belgrade, a member of the Gay Straight Alliance, an organisation supporting LGBT rights, began receiving threatening telephone calls. Then a graffiti appeared on her house -- ULTRA BOYS [football club supporters]. A month later she received further threatening calls. Then on 15 May 2007 graffiti appeared near her home, with the word "lesbian", her birth date, and a current date, presumably intended to indicate her death date. T.P. reported the case to two separate police units, both of whom told her that it was not in their job description to find her protection and to investigate the offenders. On 22nd May she again reported the case to the local police station, but was told that nothing could be done in the absence of the superintendent. By July the police had still taken no action in support of her.³⁸

4.5.3 Ombudspersons and other equality institutions

44. *The Freedom of Assembly Report* summary lists three occasions when ombudspersons have failed to support LGBT human rights defenders in exercising the right to freedom of assembly. In May 2006 Russian human rights ombudsman Vladimir Lukin commented: "their difference from other people cannot serve as an excuse for a boisterous public demonstration. I can hardly imagine supporters of more conventional principles voicing their priorities in such a manner."

45. Serbia -- September 2006: Lesbian human rights defender organisation Labris began work on a media campaign, "Proud of my parents", aimed at supporting the parents and friends of lesbians and gays, and consisting of, amongst other things, a radio jingle and a video for television. Labris had great difficulty finding radio and TV stations willing to broadcast the material, with directors and editors requiring their staff to refuse cooperation. The Serbian Sex Equality Council refused to support Labris.³⁹

5 Conclusions

46. Homophobia is endemic in the political, religious and social structures of many Council of Europe member states. LGBT human rights defenders consequently face considerable dangers and many obstacles in working for recognition of the fundamental rights of their communities. All too often their legitimacy and the causes for which they work are denigrated or rendered invisible.

47. The Council of Europe has a crucial role to play in changing this situation. The European Court of Human Rights, in a series of judgments in recent years, has led the way in establishing that LGBT people enjoy the same fundamental rights as the rest of society.

48. The Committee of Ministers, by specifically naming - and therefore clearly supporting - LGBT rights, can also make an important contribution to an increased recognition that these rights are a part of fundamental rights, and to a gradual erosion of attitudes to the contrary among politicians and other leading figures in society. By including specific reference in its Declaration to LGBT human rights defenders, together with those representing other vulnerable groups, the Committee of Ministers can emphasise their legitimacy, and bring visibility to the problems which they face.

³⁸ E-mail correspondence with ILGA-Europe dated 5 June 2007 and 12 July 2007

³⁹ Labris website: *Discrimination against lesbians and gays in Serbia in 2006*

Attachment I - The Freedom of Assembly Report Summary

ILGA-EUROPE

LESBIAN, GAY, BISEXUAL AND TRANSGENDER RIGHTS
FREEDOM OF ASSEMBLY
DIARY OF EVENTS BY COUNTRY

SUMMARY OF KEY DEVELOPMENTS AT AUGUST 2007

	Reference in main text
1. Marches, demonstrations or other public events banned, or attempted to be banned by city authorities on 18 occasions:	
Latvia	
Riga - July 2005 (ban overturned by the District Administrative Court and the march goes ahead)	4.10
Riga – July 2006 (ban upheld by the Administrative Court)	4.21, 4.22
Lithuania	
Vilnius – May 2007 - ban on EU anti-discrimination bus entering the city leads to cancellation of first ever public event in support of LGBT rights	5.2.1
Moldova	
Chisinau - May 2005 – Pride event	6.10
Chisinau – May 2006 – Pride event	6.20
Chisinau - July 2006 - All Different/All Equal youth march	6.21
Chisinau - September 2006 -- Amnesty International death penalty demonstration	6.22
Chisinau - December 2006 – “Day against fascism” public event	6.25
Chisinau - April 2007 -- Pride event	6.30
Poland	
Warsaw - June 2004 (an alternative march goes ahead)	7.11
Warsaw - May 2005 (alternative marches goes ahead)	7.21/7.212
Poznan - November 2005 (the march goes ahead despite the ban)	7.24
Torun – November 2005 (the march goes ahead despite the ban)	7.244
Romania – Bucharest -- May 2005. The mayor’s ban is lifted after the intervention of the Romanian president	8.1
Russia	
Moscow – May 2006 – Pride event (organisers try to hold rally instead)	9.25/9.252
Moscow – May 2007 – Pride event (organisers try to hold rally instead)	9.351
St Petersburg – May 2007	9.36
Moscow – June 2007 – demonstration for EU visa ban on the Mayor of Moscow	9.39
2. Leading politicians use intolerant and/or derogatory language	
Latvia: July 2005: the Prime Minister, and the Deputy Speaker of the Parliament	4.10 / 4.13
Poland:	
April 2004: A statement by the Krakow regional parliament	7.10
November 2004: the chairperson of the City Council of Poznan	7.12
May 2005: the future Minister of Culture	7.20
May 2005: the Mayor of Warsaw, and future President	7.21

Summer 2005: Wojciech Wierzejski, deputy chairman of the League of Polish Families and MEP	7.214
October 2005: the future Prime Minister of Poland	7.23
November 2005: the Mayor of Poznan	7.24
May 2006: Wojciech Wierzejski, deputy chairman of the League of Polish Families and MEP	7.32
Russia:	
February 2006: the press secretary of the Mayor of Moscow	9.213
May 2006: the Mayor of Moscow	9.253
May 2006: the Mayor of Moscow	9.255
January 2007: the Mayor of Moscow	9.31
February 2007: the Deputy Chairman of the State Duma Committee for Public Associations and Religious Organisations	9.313
February 2007: the head of Moscow's International Relations Department	9.314
April 2007: the press secretary of the Mayor of Moscow	9.33
3. Leading faith representatives use intolerant and/or derogatory language	
Latvia:	
August 2005: Roman Catholic cardinal Jânis Pujats	4.15
July 2006: Roman Catholic cardinal Jânis Pujats	4.20
July 2006: Pastor Aleksey Ledaev of the New Generation	4.20
Romania: June 2006: Ciprian Campineanu, spokesman for the Romanian Orthodox Church	8.20
Russia:	
February 2006: the Chief Mufti of Russia's Central Spiritual Governance for Muslims	9.21
February 2006: the Rev Mikhail Dudko of the Moscow Patriarchate Department for External Church Relations	9.211
February 2006: the Chief Rabbi of Russia	9.212
March 2006: Patriarch Alexi II of Moscow and all Russia	9.214
March 2007: Metropolitan Kirill , chairman of the Moscow Patriarchate Department of External Church Relations	9.316
March 2007: Vsevolod Chaplin, deputy head of the Moscow Patriarchate Department of External Church Relations	9.317
April 2007: Patriarch Alexi II of Moscow and all Russia	9.318
May 2007: Metropolitan Vladimir of St Petersburg	9.36
May 2007: Moscow Patriarchate Department of External Church Relations	9.37
4. Inflammatory language in the media	
Latvia	
July 2006 – homophobic advertisements in newspapers	4.20
February 2007: homophobic newspaper article	4.30
May 2007: homophobic newspaper article	4.33
5. LGBT rights demonstrations face violent counter-demonstrations on 20 occasions	
Croatia	
Zagreb – June 2002	1.1
Zagreb -- July 2007	1.4 – 1.4.5
Estonia – Tallinn – August 2006	2.3
Hungary – Budapest – July 2007	3.10

Latvia	
Riga -- July 2005	4.12
Riga – July 2006	4.23
Poland	
Krakow -- May 2004	7.10
Poznan -- November 2004	7.12
Warsaw -- June 2005	7.213
Poznan -- November 2005	7.241
Gdansk -- November 2005	7.244
Elblag – November 2005	7.244
Krakow -- April 2006	7.31
Romania	
Bucharest – May 2005	8.10
Bucharest – June 2006	8.21
Bucharest – June 2007	8.3.1/2
Russia	
Moscow - May 2006	9.254
Moscow -- May 2007	9.374/6
Serbia – Belgrade -- June 2001	10.10/10.11
Turkey – Bursa – August 2006	11.3
6. Police fail to provide adequate protection on 10 occasions	
Croatia – Zagreb - July 2007	1.4
Estonia – Tallinn – August 2006	2.3
Hungary -- Budapest -- July 2007	3.11
Latvia – Riga – July 2006	4.23/4.24
Poland	
Krakow -- May 2004	7.101
Poznan -- November 2004	7.12
Elblag – November 2005	7.244
Russia	
Moscow - May 2006	9.254
Moscow -- May 2007	9.374/6
Serbia – Belgrade -- June 2001	10.12
7. Police break up, prevent, or try to prevent peaceful demonstrations or events on 7 occasions	
Moldova	
Chisinau - Ceremony at Monument of Glory prevented	6.11
Chisinau – Amnesty International Violence against Women action	6.22
Chisinau - Ceremony at Monument to the victims of repressions	6.31
Poland - Poznan -- November 2005	7.241
Russia	
Moscow – May 2006	9.254
Moscow - May 2007	9.374/6
Turkey – Bursa – August 2006	11.3
8. Police obstruct freedom of assembly through unreasonable procedures, or treat Pride participants in discriminatory fashion	
Croatia – Zagreb – 2006	1.3
Estonia – Tallinn – 2007 (possibly)	2.4/5
Croatia – Zagreb – 2007	1.4.2

9. Courts fail to uphold the right to freedom of assembly on ten occasions	
Latvia -- Riga -- July 2006 (judgment by court of first instance -- later overturned by higher court)	4.22
Moldova	
Chisinau -- 2005 pride march ban - Appeal Court	6.11
Chisinau - 2005 pride march ban - Supreme Court	6.11
Chisinau -- 2006 pride march ban - Appeal Court (overturned by Supreme Court)	6.20
Chisinau -- Ban on Amnesty International death penalty demonstration because of LGBT group's participation (overturned by Supreme Court)	6.22
Russia	
Moscow -- May 2006 - a district Court upholds the ban on the pride March	9.252
Moscow -- September 2006 -- Moscow City Court rejects appeal against ban	9.27
Moscow -- January 2007 -- City Court rejects request for "special procedure review"	9.30
Moscow -- April 2007 -- head of City Court rejects appeal against refusal to hold "special procedure review"	9.30
Moscow -- June 2007 -- Russia's Supreme Court rules that ban on 2006 gay pride parade justified	9.38
10. Other failures of courts or public prosecution service	
Russia	
Moscow -- September 2006 -- Tverskoi District prosecution department decide not to prosecute German parliamentarian's attacker	9.26
Moscow -- April 2007 -- Tverskoi District Court rejects lawsuit against Mayor of Moscow for inflammatory language	9.34
Moscow -- June 2007 -- improper actions by judge in trial of 2007 pride organisers	9.378
Serbia - Failure of authorities to prosecute organisers of attacks on 2001 Belgrade Pride march	10.13
11. Failure of ombudspersons to support LGBT freedom of assembly	
Croatia -- 2005 and 2006	1.2, 1.35
Russia -- May 2006: ombudsman Vladimir Lukin	9.24
12. Some positive developments	
Croatia -- Zagreb	
June 2002: the public support of the Minister of the Interior	1.1
Successful, violence free marches held from 2003 -- 2006 (but not 2007)	1.2
Estonia -- Marches authorised every year between 2004 -- 2007 -- and violence-free except 2006	2.1 - 2.3
Latvia -- Riga	
2005/2006: The Prime Minister reverses his original opposition to Pride marches	4.10, 3.14, 4.21
2005: Riga District Administrative Court annuls city authorities' ban	4.11
2005: Effective police protection for march	4.12
2007: Prosecutor's office seeks to bring more serious charges against leaders of attacks on 2006 pride March	4.31
2007: Regional Administrative Court overrules lower court regarding ban on 2006 pride march	4.32
2007: The 2007 "March for Equality" successful, with no injuries to participants	4.34
2007: Riga police praised for their professionalism	4.35

Moldova – Chisinau – Supreme Court overrules 2006 pride march ban	6.20
Poland	
Warsaw - June 2005: Court overturns Mayor's ban on six rallies	7.215
Warsaw - August 2005: Appeal Court overturns ban on original 2005 Equality March	7.215
Poznan - December 2005: Administrative Court declares ban on 2005 march illegal	7.242
Warsaw – January 2006: Polish Constitutional Court rules that the law relied on in banning the 2005 Warsaw Equality March was unconstitutional	7.30
Warsaw - 2006: The Equality March is authorised by the city authorities for the first time in 3 years	7.321
Warsaw - June 2006: With effective policing, the Equality March passes off successfully	7.321
Poznan - November 2006: Poznan Equality March passes off without incident	7.33
Krakow - April 2007: Tolerance March successful	7.41
May 2007: The European Court of Human Rights rules that the ban on the 2005 Warsaw Equality March is a violation of Articles 11 and 14 of the Convention	7.42
Warsaw - May 2007: with effective policing, Warsaw Equality Parade passes off without incident	7.432
Romania – Bucharest	
May 2005: President Basescu persuades Mayor to withdraw ban	8.10
June 2007: praise for professionalism of Bucharest police	8.3.4