

REPORT ON HOMOPHOBIC AND TRANSPHOBIC HATE CRIMES AND INCIDENTS IN LATVIA 2013

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The present report is an outcome of *Step up reporting on homophobic and transphobic violence*, a project supported by ILGA-Europe, the European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association. The objective of the project was to empower European LGBTI civil society organisations to more consistently monitor and report homophobic and transphobic hate crimes and incidents.

To prepare this work, ILGA-Europe had developed a harmonised data collection methodology in 2012. The methodology builds on international standards and on the expertise gained in different past activities, such as the elaboration of European-wide submissions to the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) in view of its Annual Report on Hate Crime¹, or ILGA-Europe's participation to the *Facing Facts! Making hate crime visible* project.²

Step up reporting on homophobic and transphobic violence was launched in 2013. ILGA-Europe's Documentation and Advocacy Fund, with the support of the Government of the Netherlands, provided dedicated resources to 12 national and local NGOs in Bosnia and Herzegovina, Greece, Ireland, Italy, Latvia, Lithuania, Moldova, Poland, Portugal, Spain, Turkey and Ukraine. These NGOs were trained on the methodology previously developed by ILGA-Europe, and committed to apply it in order to produce comparable data.

Data collection and publication is expected to be developed on a more sustainable and professional basis in the future, thanks to the capacity building aspect of the current project. Following this pilot initiative, ILGA-Europe's methodology will be made available to more European LGBTI civil society organisations.

¹ <http://www.osce.org/odihr/108395>

² <http://www.ceji.org/facingfacts/>

Introduction

The project “Reporting homophobic and transphobic hate crimes and incidents in Latvia” started in February 2013 and ran till December 2013.

The project was introduced to LGBT community with extensive communication campaign using Association of LGBT and their friends MOZAIKA (hereinafter – MOZAIKA) web page, newsletters, social networks such as Facebook, Twitter and draugiem.lv (local Latvian Facebook equivalent). As an important tool for the information campaign MOZAIKA chose the local LGBT dating website to reach community members who are not linked with MOZAIKA or its allies. This campaign was introduced in February of 2013 and will continue after the project in order to ensure project long-term impact.

In 2011, MOZAIKA developed the online hate incident reporting site www.naidanoziegumi.lv. Within the project the hate incident reporting was updated with a special section for reporting LGBT hate crimes and incidents.

In order to reach out to the LGBT community in Latvia, MOZAIKA organized information days and meetings with the community in order to learn about the possible verbal and physical violence as well as raise awareness about hate crimes and discrimination. Information days were conducted in the capital, Riga, and in twelve main cities of Latvia covering all the country.

In addition, one of the reach out methods was to approach community members at their meetings places such as clubs and bars. Information on reporting possibilities was available.

Most reports were collected via face-to-face interviews with victims or witnesses. Anonymous reports were treated separately. With reports done via phone, e-mail or online reporting system (when contact information is given), additional face-to-face or phone interviews were initiated.

The main challenges to gather evidence and reports were to get access to the LGBT community. Latvia has very limited LGBT meeting places and the community is considered to be very closeted. During face-to-face interviews and meetings with the community the main challenge was that many LGBT community members do accept attacks and insults as a norm and they are not considering it as an act of violence. The lack of understanding of the term hate incident and hate crime was also seen as challenge. Last but not least, the lack of

trust in third parties, such as the police, the Ombudsman and also MOZAIKA. Such lack of trust was based on the lack of information and lack of support previously as well as on bad previous experience.

To overcome the main challenges MOZAIKA were looking to connect with LGBT community leaders outside of Riga as well as to connect with LGBT community members online through dating portals, also meeting community members in clubs, bars, and visiting members of the community in different regions and in Riga. The extensive information campaign was the most efficient method to gather more evidence.

During interviews and meetings MOZAIKA explained all possibilities to report incidents to the police, the Ombudsman and non-governmental organizations, as well as the possibilities to receive psychological, legal, social and medical assistance in order to gain more trust to organization and other institutions.

Out of 8 reports of possible hate crimes in Latvia 7 reports are perceived to be based on persons sexual orientation: 2 incidents targeting lesbian women and 5 incidents targeting gay men. No incidents were reported based on a person's bisexuality. No incidents were reported that would be perceived as hate crime towards a person's gender identity.

Key findings

The main issue is that there is a very low understanding of what hate crimes, bias motivated violence and discrimination are. Often members of the LGBT community see these as deserved attitudes and do not think that they have a possibility to report these cases.

There were 8 records made in total during the year of 2013. 7 reports to be based on persons' sexual orientation that includes:

2 incidents were reported against lesbian women and 5 incidents against gay men. No incidents were reported based on a person's bisexuality. No incidents were reported that would be perceived as hate incidents targeting a person because of gender identity. One case could be perceived as hate crime targeted towards the LGBT community as such.

In 2013, MOZAIKA did not receive any information or reports of homicide or arson. Only one case of extreme physical violence, three cases of assault and three cases of psychological violence were recorded.

The case that was recorded as an assault could also be perceived based on multiple grounds – sexual orientation and mental disability.

Even if the police was called in two cases, no reports were made due to, as reported to MOZAIKA, the absence of professional attitudes of the police officers.

In 2013, MOZAIKA have also received 10 other reports that could be classified as "other incidents with bias motivation". All the cases were targeted at gay men. After analysis 7 cases were recorded as incidents with a bias motivation - refusing commercial services, verbal violence or threats and one possible discrimination case reported in the area of employment.

Bias motivated violence against LGBTI

The legal situation of homophobic and transphobic hate crime

The only legislative act that prohibits hatred based on sexual orientation is the Electronic Media Law

On February 14th, 2013, the Latvian Parliament adopted amendments to the Electronic Media Law. **Article 35** bans incitement of hate and calls to discriminate person or group of people in the audio and audiovisual commercials based *inter alia* on their sexual orientation (Article 35).

The Criminal Law of the Republic of Latvia does not recognize homophobia and transphobia as a bias motivation but recently there are extensive discussions in the government and in civil society on possible amendments of the Law. Different NGOs including MOZAIKA are initiating debates with state actors in order to include homophobia and transphobia as a bias motivation. The Ministry of Justice and the Parliament of the Republic of Latvia are also debating on possible amendments yet without involvement of civil society at large.

The Criminal Law in regards to hate crimes and bias crimes includes 4 Articles:

Article 78 “Triggering of National, Ethnic and Racial Hatred”

(1) For a person who commits acts intentionally directed towards triggering national, ethnic or racial hatred or enmity, the applicable punishment is deprivation of liberty for a term not exceeding three years or community service, or a fine not exceeding sixty times the minimum monthly wage.

(2) For a person who commits the same acts, if they are associated with violence, fraud or threats, or where they are committed by a group of persons, a State official, or a responsible employee of an undertaking (company) or organisation, or if it is committed utilising automated data processing systems,

the applicable punishment is deprivation of liberty for a term not exceeding ten years.

Article 48 “Aggravating Circumstances”

(1) The following may be considered to be aggravating circumstances:

14) the criminal offence was committed due to racist motives;

Article 150 “Incitement of Religious Hatred”

(1) For a person who commits violation of religious feelings of persons or incitement of hatred in connection with the attitudes of such persons towards religion or atheism,

the applicable punishment is deprivation of liberty for a term not exceeding two years or community service, or a fine not exceeding forty times the minimum monthly wage.

(2) For a person who commits the same act, if by such act is caused substantial harm or it is associated with violence, fraud or threats, or where it is committed by a group of persons or a State official, or a responsible employee of an undertaking (company) or organisation, or if it committed utilising automated data processing systems,

the applicable punishment is deprivation of liberty for a term not exceeding four years or community service, or a fine not exceeding eighty times the minimum monthly wage

Article 149¹ “Violation of Discrimination Prohibitions”

(1) For a person who commits discrimination due to racial or ethnic origin or for the violation of discrimination prohibitions specified in other regulatory enactments if it committed repeatedly within a one year period,

the applicable punishment is a fine not exceeding thirty times the minimum monthly wage.

(2) For a person who commits the same acts, if by such acts substantial harm is caused or they are associated with violence, fraud or threats, or where they are committed by a group of persons or a State official, or a responsible employee of an undertaking (company) or organisation, or if it is committed utilising automated data processing systems,

the applicable punishment is deprivation of liberty for a term not exceeding two years or community service, or a fine not exceeding fifty times the minimum monthly wage.

There are no legislative acts that would prohibit incitement to violence and discrimination towards person's gender identity.

Homophobic and transphobic hate crimes and hate incidents

During the year 2013, MOZAIKA recorded 18 cases of possible hate incidents, violence and discrimination in Latvia based on persons sexual orientation or/and gender identity. This report includes the analysis of 8 records that we consider as hate incidents³.

In 2013, MOZAIKA did not receive any information or reports of homicide or arson.

Extreme physical violence

In 2013, MOZAIKA have received only one record of extreme physical violence that took place near one of the LGBT clubs in the capital city - Riga. The act of violence took place in March 2013. The victim is a gay male, aged 45 on the day of the attack. He believes that the act of violence was carried out based on his sexual orientation because perpetrators (2 male persons) were using abusive language that is usually targeted at LGBT persons. The victim is also involved in the LGBT business sector.

The victim sought medical assistance. The case was not reported to police.

Assault

In 2013, MOZAIKA have received three reports of assaults. All acts of violence were targeted at gay men in the age group from 25 to 30. One case took place in Riga in May, near one of the LGBT meeting places; the second case also took place in May in one of the other major cities of Latvia. The third case took place in a rural area of Latvia – it actually takes place on a regular basis as the victim is regularly attacked verbally and sometimes perpetrators throw stones at him. This case could also be treated as assaults on multiple grounds as the person has mental disability.

In all cases there are reports on the use of abusive language that is usually targeted at LGBT persons. All attacks involve several perpetrators; in two cases the victims knew the perpetrators. Only two victims considered themselves “out” to friends. In two cases there were several witnesses. One victim has defended himself with sharp object. In none of the cases injuries were reported.

The police were contacted in only one case, but as the conflict involved several persons, law enforcement officers threatened the victim that the perpetrators might also take

³ Definition see ANNEX 2

legal action against the victim. No official report to police was filled. None of the victims sought medical, legal or psychological assistance.

Damage against property

In 2013, MOZAIKA have received only one record of damage against property, which was targeted at one of the LGBT clubs in the capital city - Riga. The incident took place in August 2013. The incident involved sharp objects and stones being thrown at the doors of the establishment. Police was called to the place of the incident but no official report was filled due to arrogant attitudes from law enforcement officers as reported by one of the representatives of the club.

The perpetrators were unknown and there is no other evidence apart from reports from club owner, security guard and few visible damages of the doors of the establishment.

Threats and psychological violence

In 2013, MOZAIKA have received three reports that can be classified as psychological violence. In two of the cases the victims were adult women who consider themselves lesbians but one case also includes violence towards an underage gay male person.

In regards to psychological violence, only one person considered herself to be completely "out", none of the other victims were "out". Two incidents took place in Riga and one in one other major city of Latvia.

Two reports are based on mobbing at school. In one case threats came from the educational personnel; in the other case perpetrators were classmates and schoolmates. One report involved mobbing at the working place, which took place throughout February, after which the victim left the workplace. All the perpetrators were known to victims and are legally responsible.

None of the psychological violence cases were reported anywhere apart from MOZAIKA. None of the victims sought psychological assistance.

Other incidents with a bias motivation

In 2013, MOZAIKA have received 10 other reports that could be classified as other incidents with bias motivation. All the cases were targeted at gay men.

After critical analysis and in-depth interviews, 3 reported cases were not seen as incidents with a bias motivation.

Out of the other 7 other bias motivated incidents, 2 were cases of refusal of commercial services to a gay male couple that took place in Riga, 4 cases involved the use of abusive language that did not involve any violence or threats, 3 cases took place in Riga and one took place in one of the major cities of Latvia. During this project there was also 1 possible discrimination case reported in the area of employment: a witness reported a case where person was not promoted to the senior management position due to his sexual orientation.

Trends:

Some of the hate incidents happened near LGBT meeting place such as clubs and bars. Also most of the reported cases took place in Riga. This might be explained as Riga is the capital and almost half of the entire population of the country resides in the capital.

A recent opinion poll conducted by the Latvian Market Research Company SKDS shows worrying data. To the question that would measure tolerance towards LGBT persons in Latvia "Would you consider homosexuality to be a norm in every society"⁴⁵ only 4% agreed that it is a norm, 9% would agree more than disagree but 62% consider that is not a norm, in addition 17% would disagree more than agree that homosexuality is a norm in every society. The number 62% is the most critical comparing to data coming already from 1998 (56% in 2012; 55% in 2003 and the lowest 31% in 1998).

Meanwhile in December 2011, the Market Research Company SKDS also conducted an opinion survey "Opinions about hate crimes". Comparatively often Latvian inhabitants said that they would not like to be neighbours with people belonging to sexual minorities (26%) and foreign guest workers (17%). When the respondents were asked about which of the social groups were at risk to suffer from hate crimes they often said that sexual minorities (48%) were the most endangered. The respondents rarely thought that people of other races ("darker skinned" people and Asians (30%)) and Roma (29%) were at most risk of suffering from hate crimes.

⁴ exact translation

⁵ meant "Would you accept homosexuality?"

Positive trend is that more and more members of the LGBT community learn about the possibilities to report violence and also about the measures that they can take in order to report the violence, including assistance that could be provided by MOZAIKA.

Police and other law enforcement authorities

Only two crimes were reported to the police. None of the cases were officially. In December 2011, the Market Research Company SKDS also conducted an opinion survey "Opinions about hate crimes" Respondents who said that they would not ask for help to police were asked to justify their choice. Most said that the reason they would not seek police help was that they did not trust them. (26%). Rarely did respondents say that there was no point (14%) in turning to police for help. As many said that they would sort out hate crime issues themselves (14%). 13% said that police would not help. Approximately one-tenth of those who would not seek police help also said that police did not do anything (9%). Several respondents indicated that hate crimes were not serious enough to seek police help (4%) or that hate crimes were not in the scope of police work (2%).

As observed in previous years and also during the trainings for the law enforcement organized by MOZAIKA and the State Police college, often the police and law enforcement authorities have almost no knowledge about hate incidents. Due to "limited human and financial resources", police officers might decide to convince victim not to report the incident.

In regards to law enforcement officers threatening the victim that the perpetrators might also take legal action against the victim, MOZAIKA approached the victim to file a case against the police officers at the Internal Investigation Bureau of the Latvian State Police. The victim refused to do so.

In regards to the recorded case where one of the LGBT clubs was targeted and its property was damaged, the police was called to the place of the incident but due to arrogant attitudes from the police officers, that included abusive comments towards the establishment, no report was made. MOZAIKA approached the representatives of the club to file a case against police officers at the Internal Investigation Bureau of the Latvian State Police, representatives of the club refused to do so.

Conclusions:

Due to our extensive information campaign there is an increase in reports about hate based incidents, cases of violence and discrimination.

Trends in previous years show that there are disagreements with law enforcement officials such as insulting hate crime victims, in regards to this MOZAIKA will draft recommendations to the Ministry of Interior and the State Police of the Republic of Latvia in order to improve their reporting, statistical and investigative systems, as well as introduce the concept of Liaison Officer working with Diversity, a person who will liaise between diverse communities and minority organizations.

Trends show that there are no improvements in terms of trust in the police or the Ombudsman's office. Since 2010, the Ombudsman office in Latvia has been critical towards hate incidents based on persons' sexual orientation and / or gender identity. Due to incidents and prejudices, the LGBT community does not trust the police or other law enforcement officials. Meanwhile the Ombudsman is not seen as a main Human Rights body in Latvia.

Within this project MOZAIKA improved existing hate crime prevention programme and a reporting system that will automatically compare the cases and incidents over the coming years. One encouraging trend is that there are more reports than any other years since the founding of the organization in 2006.

Within the project, an advocacy strategy was prepared in order to establish a legal advisory group as well as a lobbying group working on the proposed changes in The Criminal Law of Latvia. Within the Council of Europe's LGBT project, proposed changes are developed and in December 2013 the Latvian LGBT Advisory Council was established that partly plays a role of advocacy tool for broad range of change implementation.

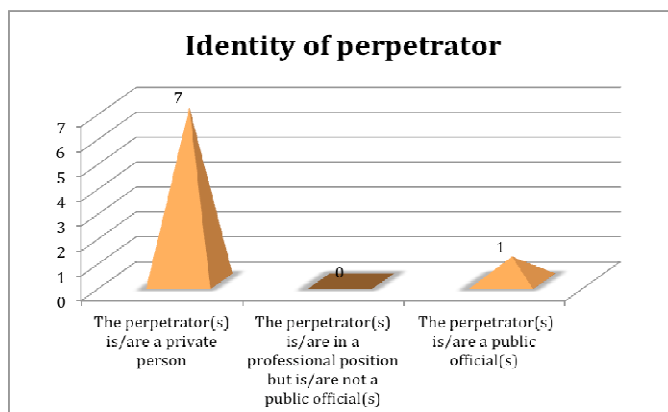
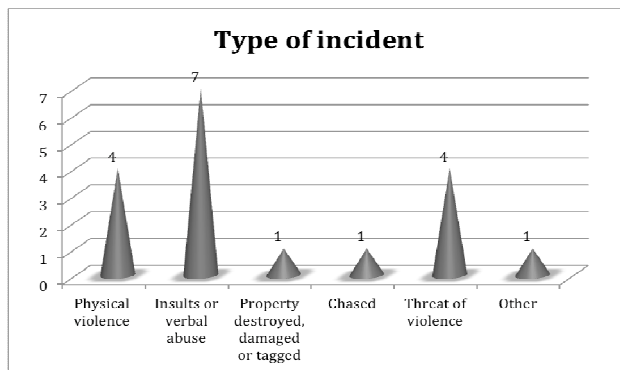
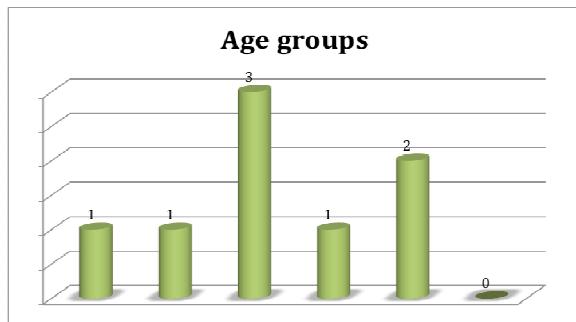
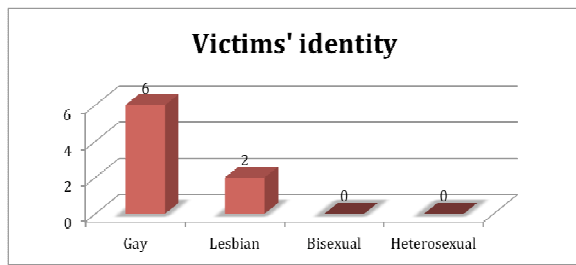
Within the Council of Europe's LGBT project MOZAIKA, together with national and International experts drafted the Action Plan "Development of Equality and Respectful society in Latvia 2015 – 2017". The action plan includes extensive legislation analysis, preparation of legislative changes as well as broad range of hate crime prevention measures and the development and implementation of victim support mechanisms.

MOZAIKA will further develop the online hate crime reporting system www.naidanoziegumi.lv and will also involve the state police to take part in the monitoring of the incidents.

MOZAIKA will also continue trainings for the law enforcement officials in order to communicate the results of this report and jointly find possible solutions to trace and tackle hate crimes against the LGBT community as well as towards other minority groups.

This report is published within the framework of the grant of ILGA-Europe's *Documentation and Advocacy Fund*. In the beginning of 2014 the report will be translated in Latvian, presented to the authorities of Latvia and be made publically available.

ANNEX 1: Graphs



GLOSSARY

Bias motivation

A bias or hate crime or hate-motivated incident can be based on one of the following motivations: race/ethnicity, religion/faith, nationality, age, disability, sex, sexual orientation, gender identity, or other grounds.

Hate crime (or bias crime)

Hate crime are criminal acts motivated by bias or prejudice towards particular groups of people. This could be based, inter alia, on gender, gender identity, sexual orientation, ethnicity, religion, age or disability.

A hate crime comprises two distinct elements:

- It is an act that constitutes an offence under criminal law, irrespective of the perpetrator's motivation; and
- In committing the crime, the perpetrator acts on the basis of prejudice or bias.

Thus, the perpetrator of a hate crime selects the victim based on the victim's membership or perceived membership of a particular group. Where the crime involves damage to property, the property is chosen because of its association with a victim group and can include such targets as places of worship, community centres, vehicles or family homes.

Hate-motivated incidents

An act that involves prejudice and bias of the sort described above but does not amount to a crime is described as a "hate-motivated incident". The term describes acts motivated by prejudice ranging from those that are merely offensive to those constituting criminal acts in which the crime has not been proven. Although hate-motivated incidents do not always involve crimes, such incidents often precede, accompany or provide the context of hate crimes.

Victim of a homophobic or transphobic hate crime/ incident

A victim of a hate incident/ crime is a person that has suffered of any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate based upon his/her sexual orientation, gender identity or gender expression. The perception of the victim or any other person is the defining factor in determining a homophobic or transphobic hate incident.