



Centar za građansko obrazovanje



Juventas



VEDRICT OF THE HIGH COURT IN BELGRADE
IMPORTANT MESSAGE FOR THE REGION
Podgorica, 8. June 2011

The LGBT Forum Progress, Centre for Civic Education, Human Rights Action, Center for antidiscrimination „Equista“ and „Juventas“ welcome the first-instance verdict of the High Court in Belgrade, which adopted the claim of the NGO Gay Straight Alliance (GSA) against the daily newspaper „Press“ for publishing texts - comments from readers on the Internet site „Press Online“ . The verdict is determining that the published texts and comments represent hate speech against LGBT population, and that „Press“ has, by permitting and facilitating the above comments on the site, acted discriminatory towards this population.

This verdict has wider regional significance and it is a clear message to all the media that it is necessary to strengthen the capacities and focus of those in charge in order to stop dissemination and hate speech, as well as intolerance towards LGBT persons within the online editions of the print media and similar portals.

The launch of the first visible LGBT organization and the first public declaration of a homosexual person in Montenegro has caused a lot of attention. Publication of hundreds of very negative, primitive and offensive comments as well as direct threats were allowed on Internet. The media removed a significant number of them on their own initiative and by the pointing of NGOs. Yet, the point is that awareness against stopping discrimination must exist in media and the procedure that treats and controls the posting and moderating comments must be improved.

The court ruled that the comments that characterize LGBT persons as sick and twisted people who should be killed, closed in a ghetto are to be considered as threats that encourage hatred and violence towards members of the LGBT population and their discrimination, thus representing hate speech. The court, which is very important, rejected the defendants objection (Press) about the lack of active legitimacy of the prosecutor (GSA) and assessed that „lawsuits against the author and editor for the violation of the prohibition of hate speech may be filed by each legal entity designed to protect the freedoms and rights of citizens, and that the GSA association has the right as an NGO whose mission is to protect human rights of LGBT population. The publication of comments on the website of the defendant the prohibition of hate speech and discriminatory treatment was violated, in this case against LGBT population, and as the Gay Straight Alliance is an organization that deals with the protection of the same population, this NGO is actively legitimized to take part in this process.“

We remind that the application of existing antidiscrimination legislation in Montenegro is extremely limited. This is primarily influenced with the delay of adoption of amendments to the Law on protector of human rights and freedoms. This step is the basis for the application of the Antidiscrimination Law. Also, there are limited capacities and knowledge in prosecuting cases of violence and discrimination against LGBT population. This produces a delay in the proceedings that discourages victims. Procedures about discrimination before the primary courts do not start even after ten months of the filed complaint.

Until today, according to the LGBT Forum Progress data, there are only two reported cases of violence against LGBT persons. Basic Court in Podgorica got three lawsuits concerning discrimination. Police Directorate and the Municipal State Prosecutor got a total of 11 charges against harassment of LGBT persons and dissemination of hatred and intolerance.

Human Rights Action (HRA) did a draft amendment of the Law on Amendments to the Criminal Code (CC). Proposed changes are anticipating, amongst the other things, the penalty for promoting intolerance and discrimination based on sex, disability, sexual orientation, gender identity or other personal property. HRA proposal was supported by a significant number of non-governmental organizations and individuals.

The work to improve the status and rights of LGBT population in Montenegro is especially difficult due to the fact current Minister for Human and Minority Rights, which two years continuously gives homophobic statements and completely blocks all LGBT initiatives. Despite the requests of civil society, Minister Ferhat Dinoshia refuses to resign or apologizes to the LGBT population because of its treatment as a group whose existence does not make him happy. So far, the minister has full support of the Government that is essentially entirely behind his statements and his approaches to work.