



INADEQUATE PROTECTION

HOMOPHOBIC AND TRANSPHOBIC
HATE CRIMES IN CROATIA

AMNESTY
INTERNATIONAL





Lesbian, gay, bisexual and transgender people in Croatia risk being physically assaulted solely because of their sexual orientation or gender identity. The authorities have failed to consistently tackle these crimes.

Most cases of homophobic hate crimes occur around the time of Pride marches, when lesbian, gay, bisexual and transgender (LGBT) individuals are more visible.

Until 2011, the official police data recorded only a few cases of homophobic hate crime. However, in 2011 alone the Croatian police recorded 45 hate crimes committed on the basis of sexual orientation: 44 of these were committed in the context of Split Pride in June 2011. During the event, participants faced verbal and physical abuse from counter-protesters because of their real or perceived sexual orientation. Although the police managed to prevent direct physical confrontation between violent



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far left: Split Pride 2011. Counter-protesters gathered on the Riva chanting derogatory slogans against Pride participants.
above: Graffiti on the wall of the NGO Domine, one of the Pride organizers, ahead of the Pride march in Split.
left: Sticker calling for protesters against the Split Pride, with details of the counter-protest gathering. It reads “No to the Gay Parade. You never made it to Split and you never will.”

counter-demonstrators and Pride participants, they failed to develop appropriate plans to secure the event.

In recent years, Croatia has improved legal protection against homophobic and transphobic hate crimes. These improvements include a new Criminal Code, which will enter into force in 2013 and which acknowledges that hate crimes can be perpetrated on the additional basis of the gender identity of the victim as well as their sexual orientation. They also include Rules of Procedure developed by a government working group on hate crime, and police training undertaken in co-operation with LGBT organizations. However, monitoring by NGOs shows that flaws persist, particularly in the police

investigation of hate motives and in providing prompt and accurate information to victims.

Amnesty International visited Croatia in March 2012 and conducted about 30 interviews with LGBT individuals and organizations, and local and national authorities in Zagreb, the capital, and Split. The majority of interviews were with individuals who identified as lesbian, gay or bisexual. Amnesty International was also able to interview a very small number of individuals who identified as transgender. Very little information is available on transphobic hate crimes. There are no transgender or intersex organizations in Croatia, and Amnesty International was not able to interview any individuals who identified as intersex.

HATE CRIMES ARE A FORM OF DISCRIMINATION

The Organization for Security and Co-operation in Europe defines hate crimes as “criminal offences, including offences against persons or property, where the victim, premises, or target of the offence are selected because of their real or perceived connection, attachment, affiliation, support or membership of a group.”

Violence perpetrated against people on the grounds of their real or perceived ethnicity, race, religion, sexual orientation, gender identity or on any other prohibited ground, constitutes a form of discrimination.

“The police were not prepared for the level of violence that occurred”

Thomir, Pride participant



VIOLENCE AT SPLIT PRIDE 2011

“One man was standing on a table... he looked like he was conducting the protest. There were organised chants, like at a football match. The police were not prepared for the level of violence that occurred”

Tihomir, Pride participant.

On 11 June 2011, the city of Split hosted its first Pride in support of human rights for LGBT people. Attendance figures provided by the police and the organizers vary; between 150 and 400 people participated in the peaceful march. They were met by a large group of counter-protesters (more than 3,500 according to the police, around 10,000 according to the organizers), who shouted violent threats and threw stones at the participants. According to police accounts, four participants, two police officers and two counter-demonstrators were injured.

THREATS OF VIOLENCE BEFORE THE PRIDE

For some months before the Pride, graffiti stating the date, time and location of the counter-protest appeared in Split; leaflets calling for counter-protesters were also distributed. The police told Amnesty International that they were aware that counter-protesters had been organizing themselves and that the Pride could have been violently disrupted. Although several people were arrested before the event, the police did not manage to establish whether specific groups were responsible for organizing the counter-protest.

Some participants believed that the counter-protesters were linked to the local football supporters' club. Furthermore, several participants told Amnesty International that there had been public

opposition from the political party Croatian Pure Party of Rights (Hrvatska Čista Stranka Prava, HČSP), and some members of the local clergy had also opposed the Pride and made discriminatory remarks, including explicitly calling on their congregations to protest against the Pride.

VIOLENCE DURING THE PRIDE

Pride participants and organizers gathered at the Djardin, a public park north of the city centre. The march began peacefully, but as it continued on Marmontova Street towards the seafront, onlookers began to shout verbal abuse and to chant slogans such as “Kill the faggots”. The majority of the counter-protesters had gathered on a wide pedestrian area informally known as the Riva. Most of the violence occurred when the march reached the junction between Marmontova Street and the Riva. The counter-protesters had brought stones, tomatoes and eggs with them. They threw these at the Pride participants, along with ashtrays from nearby cafés and plants pulled from flower-beds as the march reached the junction.

The police stopped the march while they cleared a route wide enough for the participants to pass through in small groups. This took 15 minutes, during which many of the Pride participants left the march due to the scale of the violence. The police were able to prevent direct contact between the counter-protesters and the Pride participants at this point, but there was no buffer zone separating the two groups; the counter-protesters were able to get close enough to cause injury.

After 15 minutes the remaining participants were able to proceed to the main event stage at the end of the planned Pride route. Here the police had two barriers and were able to keep the counter-protesters several metres away from the Pride participants; but counter-protesters continued to throw rocks, bottles and plants. Participants were forced to take cover behind the stage.

FAILURE TO PROTECT THE PRIDE

According to the organizers and to some participants, the police were not prepared for the level of violence that occurred. There



above: Split Pride 2011. Pride participants escorted by the police on Marmontova Street.

left: Counter-protesters threw tear gas, stones and plants pulled from flower-beds at participants.

were clear signs ahead of the Pride that violent counter-protesters were organizing themselves and that there was a high risk of violence. Although 600 police officers were deployed to protect the march, the police failed to put in place adequate measures to ensure that counter-protesters were kept at a safe distance from Pride participants, for example by creating a buffer zone between Pride participants and counter-protesters, or by partially limiting the counter-protesters' access to the Riva. The failure of the police to protect Pride participants from violence amounted to a violation of their right to freedom of assembly, which is guaranteed under international law.

AFTERMATH

According to the Office of the State Prosecutor, 26 people were prosecuted for criminal offences with a hate bias, including violent behaviour (Article 331 of the Criminal Code) and violation of the right to peaceful assembly and public protest (Article 108 of the Criminal Code), while a further 103 minor offences perpetrated with a homophobic motive were registered according to the Minister of the Interior.

LGBT individuals in Split have begun to organize themselves. In October 2011, for example, the first openly LGBT organization QueerSport Split was formed. However, the group has not been able to publicly advertise for members due to fears that they could be targeted for homophobic and transphobic violence, and while it hosted the General Assembly of the European Gay and Lesbian Sport Federation in early 2012, the police advised the group not to publicize the event for fear of a negative backlash in the city. Split still has no organizations specifically advocating human rights for LGBT people.



VIOLENCE AT ZAGREB PRIDE

“I just did what 70 percent of Croatians would do...! I do not remember anyone who did not congratulate me.”

Man who served 14 months in prison for throwing a Molotov cocktail at the 2007 Zagreb Pride, quoted on a Croatian news website.

The first Pride in Zagreb was held in 2002. The annual event has repeatedly been targeted by counter-protesters and the Pride is now well protected by the police. However, while the police are able to secure the Pride event itself, attacks on participants after the parade itself in other parts of the city are frequently reported to LGBT organizations.

DALIBOR



There were a number of attacks after Zagreb Pride in 2007, but Dalibor was the most seriously injured. He and several friends



© Zagreb Pride (Photo: Andrea Knezović)

IGOR

were attacked by at least four people after Zagreb Pride, in an area that was not part of the Pride route. Despite the attack taking place around 6pm in a busy part of the city, no witnesses came forward voluntarily and the case remains unsolved. Despite requests from Dalibor and his lawyer, the police have not given a concrete answer as to why they did not look for witnesses to help in identifying the attackers.

Pictures of his bruised face appeared in the Croatian media, and for some time after that he was subjected to homophobic insults from his neighbours. Dalibor has not attended a Pride since he was attacked. The perpetrators were never identified.

In 2010, Igor, his girlfriend, and a male friend were on their way to an event several hours after the end of Zagreb Pride. They had changed their clothes since the Pride, but were still targeted by three men, who asked them if they had attended the “faggot parade”. The situation escalated into violence against them: Igor’s collarbone was broken, and his friend’s teeth were damaged. Igor’s girlfriend was not hurt. Igor believes the men were members of the “Bad Blue Boys”, an official supporters’ group for a Zagreb football team. He believes that the men who attacked him had been specifically looking for Pride participants. However, the police have not been able to identify the men and no-one has been charged with the attacks. Igor does not believe that the perpetrators will be found.

2011

There are indications that the police response to threats of homophobic violence improved in Zagreb after the violence at Split Pride. The 2011 Zagreb Pride, held on 18 June, was the first that was not marred by incidents of violence. In 2011 there were around 5,000 participants, according to the organizers.

above: Zagreb Pride, 13 June 2009. The poster reads: “Zagreb Pride for the open city: Participate” It also has a global reference to the 40th commemoration of Stonewall uprising.

HATE CRIMES AT ANY TIME

“I tried to calm him down and it worked out for a while; when my partner kissed me he yelled ‘Dirty lesbians, you have to be killed’ and then slapped me very hard.”

Danica

Homophobic and transphobic violence does not only take place in the context of LGBT Pride events. Danica, a lesbian woman from Zagreb, was assaulted after leaving a club with her partner; the perpetrator was a man who had attempted to flirt with her.

REPORTING HATE CRIMES

Some Croatian NGOs monitor homophobic and transphobic hate crime, especially in the major cities. The NGO Zagreb Pride Organizers receives around 10 complaints related to homophobic and transphobic hate crime per year; around half of them are not reported to the police. Two more Zagreb-based NGOs, Kontra and Iskorak, run a joint legal support team for victims of discrimination and hate crimes. In 2010, they recorded three cases of homophobic physical assault leading to serious bodily injuries.

Opinion surveys undertaken in the past highlighted that homophobic hate crimes are widespread, but that these crimes are underreported. A 2006 survey undertaken by Kontra showed that almost 45 per cent of lesbian, gay and bisexual individuals interviewed had experienced either physical or sexual violence. In 2007, only two cases of homophobic hate crimes were officially recorded; but a survey conducted the same year by the NGO Lori pointed out that only

4.6 per cent of lesbian, gay, bisexual and transgender individuals taking part in the survey reported this discrimination and violence to authorities. Very little information is available in relation to transphobic hate crime.

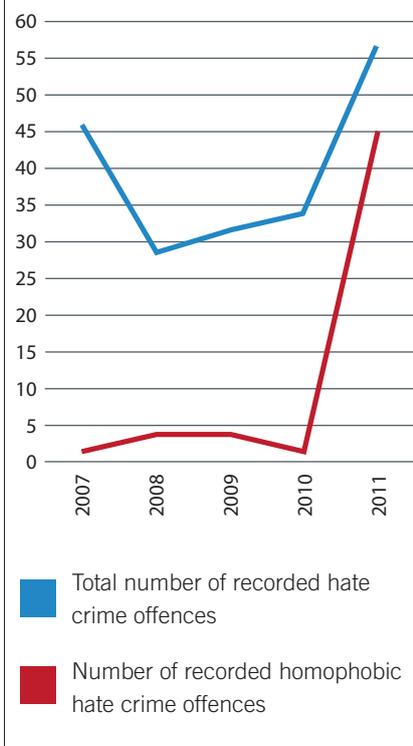
According to police data, only a few cases of homophobic hate crime are recorded annually. In 2011, only one homophobic hate crime officially occurred outside the Split Pride.

DOMESTIC LEGISLATION

The 2006 Croatian Criminal Code (Article 89) defines hate crime as any criminal offence included in the Code committed with a hate motive on the basis of a personal characteristic. Sexual orientation

is explicitly mentioned as a personal characteristic on the basis of which a hate crime can be perpetrated, but gender identity is not. Article 89 does not explicitly recognize the hate motive as an aggravating circumstance in the prosecution of criminal offences, enabling the hate motive to be reflected in the sentence (with the exception of aggravated murder, Article 91). However, the Office of the State Prosecutor told Amnesty International that in practice, on the basis of internal guidelines, the hate motive has been considered as an aggravating circumstance when prosecuting criminal offences. The new Criminal Code which comes into force on 1 January 2013 explicitly includes gender identity as a ground for prosecution of hate crimes. Moreover, the law explicitly recognizes the hate motive as an aggravating circumstance in relation to all criminal offences.

HATE CRIME OFFENCES 2007-2011



Source: Ministry of the Interior

The Governmental Office for Human Rights co-ordinated a working group on hate crimes composed of several authorities, including the Ministries of Interior and Justice, and the Centre for Peace Studies NGO. The working group developed a set of Rules of Procedure to be followed in hate-crime related cases, which entered into force in March 2011.

Although these rules clarify that the police should pay specific attention when handling hate-crime related cases, problems persist in classifying the crime, and the investigation and prosecution of the hate motive.

CLASSIFICATION AND PROSECUTION OF HATE CRIMES

The police are responsible for deciding on the legal classification of an offence. Physical attacks can be classified by the police as either a criminal offence (of bodily injury or of severe bodily injury) or as a minor offence. Minor offences are not defined by the Criminal Code but by other laws such as

the Minor Offences against Public Order and Peace Act. Croatian authorities told Amnesty International that Croatian legislation on minor offences does not acknowledge that a minor offence can be perpetrated with a hate motive.

The Office of the State Prosecutor is responsible for prosecuting criminal offences as defined by the Criminal Code, while the police are competent for processing minor offences before Courts of First Instance. The State Prosecutor has no role in processing minor offences.

The Police told Amnesty International that cases of physical attacks resulting in

bodily injuries are classified on the basis of a medical report as criminal offences and then prosecuted by the Office of the State Prosecutor, while attacks resulting in no bodily injuries are processed by the police as minor offences. However, both Pavla's and Damir's cases were classified as minor offences by the police in spite of their injuries.

However, the investigation of the attack against Matija shows the process can work when cases of homophobic violence resulting in bodily injuries are classified clearly as criminal offences and the hate motive is duly taken into account in the investigation and

prosecution phases. Matija was attacked in August 2011 by a neighbour on a tram; he believes that the neighbour recognized him from a newspaper photo of him kissing his boyfriend during Zagreb Pride. Matija was punched in the face and verbally abused. He got off the tram, but was followed by his attacker, who continued to hit him. Matija identified the perpetrator, and the crime was recorded by police as a hate crime and prosecuted as a criminal offence. In October 2011, the perpetrator was sentenced to nine months' imprisonment.

PAVLA



Pavla reported what happened to the police, including the homophobic comments. She was taken to hospital, treated for her head and face injuries and kept under medical observation for several hours. Following her release, Pavla repeatedly tried to get information on her case; she went to the police station several times during the months following her attack but was never given comprehensive information. "Every time I tried to contact the police to get more information, the way they behaved made me think they were not taking the complaint seriously, I felt that they just wanted to send me home..."

On 31 January 2010, Pavla went to a club with some friends. A man attempted to flirt with her, and then made explicit sexual proposals; Pavla told him she was a lesbian. When she left the club, the man was waiting for her outside, together with five others. Pavla was called names and then physically assaulted by the man she met in the club. She was repeatedly kicked in the head and body. The men ran away only when an acquaintance of Pavla came out of the bar and threatened him with an imitation firearm.

She found out, in November 2010, that the police had not registered the hate bias and had recorded that the perpetrator attacked Pavla because he was drunk. In June 2010, the case had been processed as a minor offence and the perpetrator fined 300 kuna (€50) for "disturbing the public peace". Criminal charges were finally dropped in June 2011.

"I had some confidence in the police; I expected them to do their job, now I do not have any trust in the Croatian police and criminal justice system" said Pavla.

DAMIR

On 11 June 2011 (the day of Split Pride), Damir, his boyfriend Mislav and two friends were in Zagreb waiting for the tram. Three drunk men approached them and started making homophobic comments, and followed them onto the tram. After a brief altercation, the men started hitting Mislav, punching him in the head until he fell to the floor. One of the men punched Damir in the face. Other people in the tram intervened and threw the attackers off at the next stop. Damir was treated at the hospital for a broken nose.

Damir did not feel comfortable disclosing his sexual orientation to the police, but he did tell them that he was attacked because he was perceived to be gay by the perpetrators, and the violence at Split Pride had been reported on the news that day.

The same day, the perpetrators were found and Damir's friend identified them at the police station. However, the police then lost the case files. The police did not ask Damir and his friends to attend another interview until October. Damir and his lawyers did not find out until March 2012 that the perpetrators had been tried in the minor offences court, and the criminal charges had to be dropped.



“People don’t report hate crime, because they expect negative outcomes from the police... but I think the police are more afraid to be homophobic now..”

Matija, March 2012

INVESTIGATING THE HATE MOTIVE

The police have a duty to undertake a thorough investigation of any alleged hate motive underlying any criminal offence. The State Prosecutor can add the hate motive at the prosecution phase of a criminal offence, but will often follow the conclusions reached by the police. The police told Amnesty International that although legislation on minor offences does not acknowledge that a minor offence can be perpetrated with a hate motive, they take any alleged hate motive into account when

processing minor offences and collect data on such offences. However, Pavla and Damir’s lawyers told Amnesty International that the hate motive was not taken into account by the police in their cases.

INFORMATION FOR VICTIMS

Minor offences proceedings are usually concluded faster than criminal procedures. When a perpetrator of hate-biased physical violence has been already sentenced in a minor offences proceedings, the criminal charges have to be dropped as the perpetrator cannot be tried twice for the same offence. Pavla and Damir were not informed that their cases were going through the minor offences proceedings until the perpetrators had already been convicted for minor offences; they were consequently unable to challenge the classification of the offence.

TRANSPHOBIC HATE CRIME

Although the authorities have said that gender identity could be taken into account as a possible ground for hate crime, no transphobic hate crime has ever been officially reported. Amnesty International is aware of at least two cases where the investigation did not take the transphobic motive into account.

In 2010, the NGOs Iskorak and Kontra reported to the Ministry of the Interior a violent attack against a transgender woman and the alleged misconduct of police officers who refused to take the complaint seriously, and also made discriminatory comments such as “See what you look like – I would beat you up too”. The Ministry of the Interior replied in writing to the NGOs that there was no evidence of the officers’ misconduct. The victim became discouraged and decided not to continue her case.

LGBT organizations have highlighted that transgender people are invisible in Croatia.



© Zagreb Pride (Photo: Charles Meacham)

left: Zrinevac Park at the end of Zagreb Pride march, June 2010.

Nika, a transgender person studying in Split, told Amnesty International that “very little information is available to trans people. I myself did not know that hormonal treatment was available until a couple of years ago when the NGO Zagreb Pride Organizers ran a workshop on trans issues. There is no specific trans network in Croatia.

Zagreb Pride has been adequately protected in recent years, but the events that occurred at Split Pride in 2011 show a blind spot in the police response. The level of intolerance and violence targeting LGBT people in Split raises concerns about the effectiveness of current initiatives aimed at fighting discrimination and intolerance undertaken by both national and local authorities.

CONCLUSION

Although there have been steps forward, especially in relation to data collection and the definition of hate crimes in the new Criminal Code, Amnesty International is concerned that flaws persist in the investigation and prosecution of hate crimes, and that intolerance and prejudices against lesbian, gay, bisexual and transgender people have not been effectively tackled by state authorities.

Very little information is available on transphobic hate crime. No such cases have ever been officially registered, transgender individuals have reported police misconduct when reporting crimes, and the visibility of transgender individuals in Croatia remains low.

ANGEL



© Elisa Okasaki

“I was confused, they looked suspicious... Everything went so quickly; they smashed one bottle in my face.”

After the performance she left the club with three friends, heading for their car parked nearby. Two men approached them, holding bottles: they asked Angel the time. “I was confused, they looked suspicious but I did not know if they were flirting with me or if they just wanted to bother me. Everything went so quickly; they smashed one bottle in my face. We all started running to reach the car but they followed us and they also hit my friends. When we eventually reached the car, they started kicking the car”. Angel was taken

to the hospital where one of her injuries required stitches. She went to the police, who made derogatory remarks about Angel’s clothing. The case was not registered as a hate crime on the ground of gender identity or expression; no such crime has ever been registered by the police.

“When you go out dressed this way, these things can happen.”

Police officer to Angel.

The perpetrators were never found. The attack was reported by the media as a hate crime on the ground of gender expression. “Since then I pay much more attention when I am in Croatia. For instance I do not walk alone during the night, I would rather take a taxi” said Angel.

On 24 April 2007, Angel, a transgender woman, performed with her band in a club in Zagreb.



above: Amnesty International activists take part in Gay Pride in Paris, France, 28 June 2010.

front cover: Split Pride, 11 June 2011. Pride participants met by counter-protesters on the corner of the Riva and Marmontova Street.

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RECOMMENDATIONS

It is time to ensure that LGBT people in Croatia are able to live their lives free from discrimination and the threat of violence. Amnesty International recommends

To the Croatian Government:

- Specific policies and measures are put in place to encourage the reporting of hate crimes, including through awareness raising for LGBT people of available mechanisms of redress if they are targeted with homophobic and transphobic hate violence;
- A comprehensive national plan to combat homophobia and transphobia is developed, considering the worrying level of violence and intolerance manifested against LGBT people as they become more visible, including during Pride marches.

To the Ministry of the Interior and the Ministry of Justice:

- Apply guidelines consistently as to when cases of bodily injury should be processed as minor or as criminal offences;
- More co-operation between the Office of the State Prosecutor and the police takes place, in order to ensure that cases of physical assaults are classified consistently and that any alleged hate motive on which they are perpetrated is thoroughly investigated;
- Legislation regulating minor offences is amended to take account of hate motives, and to ensure that hate motives are systematically and thoroughly investigated;
- Alleged hate motives associated with all crimes or minor offences are investigated, using the Rules of Procedure in suspected hate crime cases;

- Victims of crime are notified of the progress of their case, especially a determination to treat the incident as a minor offence, so that victims are not barred from appealing against such a decision, or participating in proceedings, as appropriate;
- Specific initiatives are established to tackle transphobia within the police, in conjunction with already established initiatives aimed at tackling homophobia.

To the Zagreb and Split city authorities:

- The rights to freedom of association, expression and assembly are guaranteed, without discrimination on the grounds of sexual orientation and gender identity, including ensuring adequate police protection for participants during and after Pride marches.

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Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

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