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Comprehensive approach addressing hate crime and violence against LGBTI people

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I would like to greet all of you at the IDAHO 2015 Forum in Budva. I am very pleased it is taking place in Montenegro where I made a visit last year. Issues related to LGBTI people were raised during that visit as well as during my visit to Serbia in March this year. This IDAHO Forum is an excellent opportunity to highlight LGBTI questions from a regional perspective.

Hate crime against LGBTI people remains a grim reality across Europe. For example, 90 killings of trans persons in 13 European countries have been documented by the Transrespect versus Transphobia research project since data collection started in 2008. Individuals are not the only targets. Pride events and NGO offices have also been subject to violent attacks. In January, I raised concerns about the safety of members of the NGO Identoba in Georgia after they had received death threats.

A comprehensive approach is the necessary response. Legislation, reporting, investigations, sanctions, victim support and education are all essential elements for addressing hate crime in a coordinated way. I will give you a short outline of this process based on my experience.

Homophobic, transphobic, biphobic and interphobic hatred should be explicitly included as possible motives in national hate crime legislation. The bias motive of crimes targeting individuals or groups of people because of their sexual orientation, gender identity or sex characteristics should be taken into account as an aggravating circumstance. Hate crimes require a specific response as they have a greater impact on victims than crimes without a bias-motive by putting into question the very identity of their victims. While progress has been made in member states in terms of coverage of hate crime legislation - also in Montenegro - the challenge remains to make it truly comprehensive on all grounds. We need to send a clear message that bias-motivated crime against LGBTI people will be sanctioned effectively.

The low level of reporting of hate crimes by LGBTI people is another challenge frequently highlighted in the reports published by the EU Agency for Fundamental Rights. This reflects unawareness of available sanctions and mistrust in law enforcement officials in upholding the human rights of LGBTI people. It is obvious that the police have to be active in facilitating reporting. During my visit to Serbia in March, I learned about a promising practice of regional LGBTI liaison officers among the police with the aim of improving contacts and helping build trust between the police and LGBTI people. All cases of violence against LGBTI persons should be promptly investigated, prosecuted and sanctioned. In addition, the police should provide adequate protection to pride events.

Willingness to report can also be improved through the provision of victim support. LGBTI people need specialised support to overcome the traumatic experiences of bias motivated crime. However, such support is rarely available. While in Montenegro, I visited a shelter for LGBTI young people in Podgorica run by an NGO and I am aware of similar initiatives in France and Georgia. It is also essential that general health and social service professionals as well as members of the judiciary treat LGBTI victims with respect so that secondary victimisation can be avoided.

Naturally, we should not forget to address the root causes of intolerance and violence against LGBTI people. If public opinion is hostile towards LGBTI people, governments have a responsibility to raise awareness of diversity and respect for all persons' sexual orientation, gender identity and sex characteristics. They also have the duty to condemn violations of LGBTI people's human rights. Education plays a central role in changing attitudes and schools should be a safe environment for all students. Confronting intimidation against LGBTI people requires continuous and focused attention from schools and educational authorities. School children also have the right to receive factual information about sexuality and gender diversity so that they can question the stereotypes often rehearsed in this area.

Specific efforts are needed to ensure that intersex people are protected against hate crimes. Intersex individuals are vulnerable to hate speech and violence when they disclose their intersex status and when their behaviour or appearance does not match stereotypical notions of male and female norms. The recent Maltese Gender Identity, Gender Expression and Sex Characteristics Act amended anti-hate crime and hate speech provisions in the Criminal Code to afford protection explicitly to intersex people. Together with non-discrimination, sex assignment and gender recognition provisions, the Maltese Act constitutes a milestone in the recognition of the human rights of intersex people.

Today, my Office is publishing an Issue Paper on human rights and intersex people. European societies remain largely unaware of their lives. The supposed dichotomy of gender and corresponding medical norms have resulted in routine medical and surgical interventions on intersex people even when they have not been adequately consulted or informed prior to such procedures. Secrecy and shame surrounding intersex bodies have permitted the perpetuation of these practices while the human rights issues at stake have remained for the most part unaddressed. The respect for the rights of the child is one of the core questions.

The Issue Paper traces the steps which have already been taken towards understanding and responding to the situation of intersex people from an ethical and human rights perspective. It includes global best practices in this area. My recommendations urge governments to end medically unnecessary 'normalising' treatment of intersex persons when it takes place without their free and fully informed consent. I also propose ways forward in terms of protection against discrimination and hate crime, adequate recognition of sex on official documents and access to justice. We have to involve national authorities, human rights structures, intersex activists and medical professionals in seeking solutions to the serious concerns which have been identified. I sense that there is enough momentum currently to make a fresh start and put the human rights challenges faced by intersex persons firmly on the European agenda.