

Submission by: XY Spectrum, Belgrade, Serbia

Inter.xy.spectrum@gmail.com

For the Office of the High Commissioner for Human Rights

UPR Submission on sex characteristics and intersex status in Serbia

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SERBIA

I. Introduction:

1. In Serbia, intersex persons are legally invisible; there is no accurate information about their number, experiences and their quality of life. There is no research that would draw attention of the general public to intersex persons and provide information on this topic. One intersex person spoke publicly (video posted on social media) about their status.¹ Media often use the term *hermaphrodite* as a concept and intersex is almost not mention in Serbian society (just in medical and academia circles).

II. State Bodies

2. There are no laws or sub-legal acts in Republic of Serbia that mention intersex persons. Regulations dealing with protection from discrimination do not recognize sexual characteristics as a personal feature of a person which may be the basis for the ban on discrimination.²

3. From the annual reports of the independent regulatory agencies (the Ombudsman and the Commissioner for Protection of Equality), the reports of civil society organizations, the European Commission and the media monitoring cases of discrimination, it is noted that, in Serbia, there is discrimination in various fields but there is no special mention or analysis of intersex persons in particular.

¹ Link: <http://www.eurasia.undp.org/content/rbec/en/home/blog/2017/4/7/Being-intersex-is-hard-our-silence-makes-it-harder/>

² Article 2, Anti-discrimination law: "Sl. glasnik RS", br. 22/2009

4. The Action Plan of the Republic of Serbia for Implementation of the Strategy for Prevention and Protection against Discrimination for the period 2014-2018 doesn't recognize intersex persons and intersex status as a separate gender identity³, as well as the document of the Strategy for Prevention and Protection against Discrimination itself⁴.
5. In the Report of the Republic of Serbia on the implementation of the Action Plan for the period 2014-2015 in the field of education, recommendation from Commissioner for the Protection of Equality related to taking the necessary measures to ensure the introduction of affirmative and accurate views of the same sex sexual and emotional orientation, transgender, transsexuality and intersexuality in all textbooks (both natural and social sciences)⁵. The report was sent to Ministry of Education and Science of the Republic of Serbia, the National Education Council and the Institute for the Promotion of the Quality of Education. There is only one other section in the Report itself that explicitly points to intersex persons and that is in one of the recommended measures (4.1.1 of the Report). Statement is: "it is necessary to introduce various content and forms of work that promote anti-discrimination behavior and values that develop competences for living in a democratic society into the educational system– acquiring knowledge about the rights of LGBTI persons through the introduced educational material⁶." Further in the text only LGBT persons are mentioned.

III. Civil Sector

6. The civil sector, non-government organization Gayten-LGBT, prepared the Model of the Law on Gender Identity (2015)⁷, which refers to

³ Second report on implementation of Action Plan of the Republic of Serbia for Implementation of the Strategy for Prevention and Protection against Discrimination for the period 2014-2018:
http://www.ljudskaprava.gov.rs/sites/default/files/dokument_file/drugi_izvestaj_ap_final_16082016.pdf

⁴ Strategy for Prevention and Protection against Discrimination:
<http://www.ljudskaprava.gov.rs/sh/node/19990>

⁵ Second report on implementation of Action Plan of the Republic of Serbia for Implementation of the Strategy for Prevention and Protection against Discrimination for the period 2014-2018, page 43

⁶ Ibid. page. 92.

⁷ <https://www.transserbia.org/trans/transeksualnost/543-model-zakona-o-rodnom-identitetu>

intersex persons in article 11a.⁸ According to the article in draft law: "Parents of a child born with non-specific genitals (intersex persons) have the right to use the term "other" when filling in sex requirement field for their child in a birth certificate. Abbreviation for the term "other" in the documents is "O". Three years after reaching the age of majority a child is entitled to change the term in the sex requirement field by choosing to insert either male or female, or opt to keep the term "other". Every public institution is obliged to issue a new legal document containing the term "other" related to the person in question and based on their birth certificate containing the term "other".

7. Newly formed non-government organization XY Spectrum is working directly on intersex issues with intersex persons and their parents. Contacts with few parents of intersex children are established and one adult intersex person directly contacted organization.

IV. Records

8. In the territory of the Republic of Serbia, all newborn children diagnosed or related with any of intersex variation are referred to the Mother and Child Health Care Institute of Serbia "Dr Vukan Čupić" in Belgrade. According to the unofficial data from the Mother and Child Health Care Institute of Serbia there are 6 to 8 intersex babies born in Serbia annually. This is unofficial because the Statistical Office of the Republic of Serbia which collects the data and records the number of born, dead and stillborn babies out of the total number of births, number of males and females born, does not record groups of other persons such as intersex persons in their official reports.

V. Conclusion

9. Considering all mentioned above, it can be concluded that intersex persons are unrecognized in Republic of Serbia. In spite of the fact that there are no specific legal provisions relating exclusively to intersex persons, the rights contained in international human rights treaties

⁸ Gender identity law, Article 11a, page 5

<https://www.transserbia.org/images/2015/dokumenti/Gender%20Identity%20Bill.pdf>

apply to all, without distinction and regardless of their personal characteristics, and in this way intersex persons could also achieve their protection through the preexisting provisions relating to nondiscriminatory treatment.

VI. **Recommendations**

- a) State bodies dealing with the protection and promotion of human rights such as the Ombudsman, the Commissioner for Protection of Equality, the Children's Ombudsman, the Office for Human Rights, and so on should actively participate in the promotion of protection of human rights of intersex persons, and to provide support services and protection to intersex persons and parents
- b) Inclusion of sex characteristics as a specific basis in antidiscrimination legislation
- c) Collection, analysis and reporting annually on intersex related diagnosis, medical interventions in state medical centers and private practices
- d) Providing adequate medical, psychological and social help (counselling or/and therapy) and support for intersex people and their families
- e) Depathologize approach when addressing intersex issues (with adequate word in Serbian language for intersex) in medical, legal, educational guidelines, documents and textbooks
- f) Awareness raising through all available media