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Greetings

My name is Darko Pandurević and I will speak on behalf of Sarajevo Open Centre, civil society organization that works on advancing human rights in Bosnia and Herzegovina. We initiate and create systemic social changes, emphasizing gender equality and position of LGBTI+ persons.

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The overall situation on human rights in BiH is marked by old ongoing challenges with many new emerging in the global atmosphere influenced by anti-rights and anti-democratic actors. Efforts for reform continue in many areas amidst political complexities and societal divisions.

Today, I will cover the topic of human rights of LGBTI. The position of LGBTI in Bosnia and Herzegovina is a litmus test for many aspects of human rights such as discrimination, freedom of expression, freedom of assembly, issues related to hate crime, etc.

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Following the recommendations 120.43 and 120.48, The Action Plan to Improve the State of Human Rights and Fundamental Freedoms of LGBTI People in B&H for the period 2021-2024 was adopted at the 54th session of the Council of Ministers of B&H on 28 July 2022. The text of the Action Plan was proposed by the Ministry of Human Rights and Refugees of B&H. However, many of the goals and activities that were set out in the Action plan are not implemented yet.

Apart from well-known examples in education and political life, area of private and family life and same sex partnerships is also an issue of systemic discrimination enrooted in the legal system of Bosnia and Herzegovina. Despite recommendations like the one from last UPR cycle, 120.54 from Iceland, Bosnia and Herzegovina has not made any substantial progress in regulating same sex partnerships. Republika Srpska and Brčko District fail to even recognize the issue on political and institutional level while progress in Federation of BiH is stalled for years in the process of forming the interministerial group that will draft the law.

Visible progress has been made in terms of regulating freedom of assembly. Out of 10 cantonal laws, 5 of them have reintroduced new legislation aligned with the international standards. However, the issue remains with the ones existing in Republika Srpska, Canton Sarajevo and Hercegovina-Neretva Canton. In other words, if you want to organize protest in Sarajevo, Banjaluka or Mostar, three political and economic centers of BiH, you will still be faced with many bad practices or legal norms that directly go against enjoying the right to freedom of assembly. Some of the most notable examples can be seen through the organization of Pride March in Sarajevo where organizers

continue to face substantial financial, security and administrative burden imposed by the institutions and existing cantonal law.

Hate crime although regulated throughout BiH, is still not recognized enough in criminal proceedings. We have noted that even prosecutors that have underwent additional education and training in this field are reluctant to refer to them in the indictments. There have been 4 convictions in 2020, 8 in 2021, 4 in 2022 and not one yet in 2023 and 2024 according to the OSCE monitor. Our data gathered on the hate crimes against LGBTI persons confirm that there is a big discrepancy between the official data that contains, reported and processed cases on one side and reality, on the other side. International organizations and CSOs are still the ones who collect more extensive data on this issue than the government.

Brčko Distrikt has amended the Criminal Code to widen the scope of protection against crime, increasing the list of prohibited grounds of discrimination from race, ethnicity, nationality, and religion to include gender, sexual orientation, disability, gender identity, origin, or any other characteristics. Federation of BiH is the only part of BiH where hate speech is only prohibited on the grounds of race, ethnicity, religion and nationality. Despite progressive hate speech provisions in Republika Srpska they remain unused in practice. Our research has shown that in Republika Srpska, where the Criminal Code includes an extensive and open list of protected grounds, there have been only 3 conviction cases, all of them related to race, ethnicity, or religion. This also goes against the BiH's reality filled with incitement to hatred, violence and discrimination on many different grounds.

The increase in numbers and influence of governmental and non-governmental anti-rights actors is visible throughout BiH and most notable example is ongoing initiative to remove gender identity as a prohibited grounds from Criminal Code of Republika Srpska despite the issued opinion of the UN's Independent Expert and the Special Rapporteur.

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I will try to narrow down my presentation with three recommendations:

1. Regulate same-sex partnerships in all BiH according to the standards set forth by the European Court for Human Rights on this topic.
2. Amend or introduce new legislation regulating freedom of assembly in Canton Sarajevo, Hercegovina Neretva Canton and Republika Srpska
3. BiH should build upon developments regarding training, coordination and awareness-raising in tackling discrimination, hate crime and hate speech of LGBTI persons and implement these practices throughout the judiciary and the police.