

# Justice in the Balkans: Equality for Sexual Minorities

Challenges and perspectives for people of the Balkans related to human rights on the basis of sexual orientation and gender identity or expression.

International Academic Conference



Podgorica, Montenegro

October 23–26, 2009

**DAAD ALUMNI CLUB MONTENEGRO**

October 02, 2009

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The working languages of this conference are Montenegrin and English. Simultaneous translation will be provided.

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### **Partners**

Leipzig University – Department of European, Public International and Public Law, Germany  
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University of Montenegro – Faculty of Political Science, Montenegro  
European Commission on Sexual Orientation Law (ECSOL)  
International Lesbian Gay Bisexual Trans and Intersex Law Association (ILGLaw)

### **Donors**

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### **Special Thanks**

Conferences require a lot of work to produce and nobody can do the work alone. We would like to express particular gratitude for the contributions of the following people:

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The organizers wish to thank the talented and distinguished group of persons who have agreed to serve as speakers and moderators at our conference. All have agreed to appear without any fee, and a number have travelled at their own expense. Without their invaluable contribution, this historic conference would be impossible.

## Conference Themes

- Session 1**      Discrimination on the Basis of Sexual Orientation and Gender Identity/Expression: The Current Situation in the Balkans
- Session 2**      Legal, Cultural and Social Contexts: Human Rights, Sexual Orientation Law and Social Development at the International and European Level:  
Part 1 — LGBT Rights in North America  
Part 2 — LGBT Rights in Europe  
Part 3 — Law, Gender, Community and Social Justice  
Part 4 — Sexual Minorities, Anti-discrimination Law and Equal Rights
- Session 3**      Homophobia and Transphobia in the Balkans and Experiences in Other Countries
- Session 4**      Military And Police Encounters: Protection for LGBT People
- Session 5**      Plenary: The Future of Rights for Sexual Minorities

# Conference Sessions and Schedule

*In the interests of economizing space and to ensure consistency, in the program listing we have not listed any of the many titles and honours of our presenters. For ease of identification, when their name first appears in the program, a short description of their title appears along with their location. To avoid needless repetition, thereafter the name and location only appears if that person is again a moderator or speaker. We trust that everyone will understand this simplified approach. We have great respect for you all, and are indebted to you for your generous participation.*

## **Friday, October 23**

15:00 – 17:00 Registration

17:15 – 18:00 Opening Ceremony and Remarks

Welcome:

**Jovan Kojičić**, Assistant Professor in European Law (FAES), President of the German Academic Exchange Service (DAAD) Alumni Montenegro, guest researcher at the University of Leipzig (Germany) and post-doc in the Sociology of Law Department at Lund University, Sweden, Conference Chair

**Douglas Elliott**, Past President of ILGLaw, Partner in Roy Elliott O'Connor LLP, Toronto, Canada, President of the Conference Council

Welcome statements:

**Peter Schieder**, Honorary President of the Parliamentary Assembly of the Council of Europe, Austria

**Navanethem Pillay**, United Nations High Commissioner for Human Rights, Geneva, Switzerland (pre-recorded message)

**World Outgames 2009** in Copenhagen

18:00 – 19:50 Opening Plenary: LGBT Rights and European Integration of the Western Balkans

The Balkans is a region of southeastern Europe with an important common history and strong cultural ties between the countries within the region. As many countries in the Balkans seek greater integration with Europe, they confront the reality that discrimination against sexual minorities is legally, socially and culturally impermissible in the rest of Europe. This panel will discuss the impact that European integration has had, and may be expected to have, on the situation of sexual minorities in the Balkans.

Moderator:

**Douglas Elliott**, Canada

Panelists:

**Ferhart Dinosa**, Minister for Human and Minority Rights, Montenegro

**Leopold Maurer**, Ambassador, Head of the Delegation of the European Commission to Montenegro

**Lilit Poghosyan**, Programmes and Policy Officer, ILGA Europe

**Peter Schieder**, Austria

**Madeleine Rees**, Head of Women's Rights and Gender Unit, Office of the United Nations High Commissioner for Human Rights, Geneva, Switzerland

20:15 – 21:15 Cocktail Party and Dessert Reception

Location to be announced.

## ***Saturday, October 24***

09:00 – 10:45      Session 1, Part 1 — Discrimination on the Basis of Sexual Orientation and Gender Identity/Expression: The Current Situation in the Balkans

Homophobia and transphobia are social problems throughout the world that have also visibly manifested themselves in the Balkans. The ILGA Europe map shows considerable diversity within the countries of the Balkans regarding legal protections for sexual minorities. This panel will begin the overview of the legal and social situation of sexual minorities in the Balkans, including Montenegro, Serbia and Croatia. The situations in the Balkans will be compared and contrasted with the situation in Sweden.

Moderator:

**Srđan Darmanović**, Dean, Professor of Political Science, University of Montenegro

Panelists:

**Gordana Lukač Koritnik**, Gender Equality Ombudswoman, Croatia

**Marijana Laković**, Deputy Ombudswoman of Montenegro

**Hans Ytterberg**, Director-General, Ministry for Integration and Gender Equality, Sweden. Chairperson, the Council of Europe Committee of Experts on Discrimination on Grounds of Sexual Orientation and Gender Identity (DH-LGBT). European Commission on Sexual Orientation Law (ECSOL). Past Ombudsman Against Sexual Orientation Discrimination, Sweden (1999–2009).

**Boris Miličević**, Gay Straight Alliance, Serbia

10:45 – 11:00      Break

11:00 – 12:15      Session 1, Part 2 — Discrimination on the Basis of Sexual Orientation and Gender Identity/Expression: The Current Situation in the Balkans

This panel will continue the discussion of the current situation of sexual minorities in the Balkans. The discussion will include the current situation and recent developments in Serbia, Macedonia and Albania, the role of local and international NGOs in confronting homophobia, and the challenges faced by transgender persons in the region.

Moderator:

- **Paula Ettelbrick**, Professor of Law, United States

Panelists:

- **Marko Karadžić**, State Secretary, Ministry for Human and Minority Rights, Serbia
- **Goran Miletić**, Human Rights Lawyer, Civil Rights Defenders (former Swedish Helsinki Committee), Serbia
- **Scott Long**, Director of the LGBT Rights Program, Human Rights Watch, United States
- **Ivana Vujović**, President of the Board of Directors of Juventas, Montenegro.

12:15 – 13:30 Lunch Break

13:30 – 15:00 Session 2, Part 1 — Legal, Cultural and Social Contexts: Human Rights, Sexual Orientation Law and Social Development at the International and European Level — LGBT Rights in North America

North America is home to a large Balkan diaspora, including sexual minorities who have experienced the progress that has been achieved in some parts of North America. The United States was the world's first constitutional democracy and the birthplace of both the modern "gay liberation" movement, and the modern "religious right". In recent years, Canada has moved further than the United States in this field, and now offers same-sex marriage to anyone in the world. Other countries have made less progress, and some, such as Jamaica, still have sodomy laws. This panel will discuss the developments in North America and their implications for the Balkans, including the role of the Balkan diaspora.

Moderator:

- **Leonardo Raznovich**, Director of the Division for Law and Dispute Resolution, Canterbury Christ Church University, United Kingdom

Panelists:

- **Paula Ettelbrick**, Professor of Law, United States
- **Douglas Elliott**, Canada
- **Akim Ade Larcher**, Director of Policy & Research, Egale Canada, Canada
- **Daniel Townsend**, Co-Chair of the Sexual Orientation and Gender Identity Taskforce of the Youth Coalition for Sexual Reproductive Rights, Jamaica
- **Robert Milkovich**, Canada

15:00 – 15:15 Break

15:15 – 16:45 Session 2, Part 2 — Legal, Cultural and Social Contexts: Human Rights, Sexual Orientation Law and Social Development at the International and European Level — LGBT rights in Europe

As the Balkans moves toward closer integration with Europe, the legal instruments and institutions that Europe has developed to protect LGBT rights can be expected to have increased impact in the Balkans. This panel will provide an overview of the jurisprudence of the European Court of Justice and the European Court of Human rights such as *Dudgeon v. UK* and *Karner v. Austria*. It will also outline the current situation of LGBT rights within the region's political and economic structures of Europe.

Moderator:

- **Brad Sears**, Executive Director, The Williams Institute, UCLA School of Law, Los Angeles, United States

Panelists:

- **Helmut Graupner**, Co-ordinator, European Commission on Sexual Orientation Law (ECSOL), Director, ILGLaw Europe, Austria
- **Markus Kotzur**, Professor of European Law, Public International Law and Public Law (Chair), Director of the Institute of Public International Law, European Law and Comparative Public Law, University of Leipzig, Germany
- **Constantin Cojocariu**, Lawyer, Europe Programme from the Interights, European Commission on Sexual Orientation Law (ECSOL), United Kingdom

16:45 – 17:00

Break

17:00 – 18:30

Session 2, Part 3 — Legal, Cultural and Social Contexts: Human Rights, Sexual Orientation Law and Social Development at the International and European Level — Law, Gender, Community and Social Justice

Equality for sexual minorities is closely linked to gender equality. Legal equality for sexual minorities is essential, but it may not be sufficient in itself to create lasting changes in social attitudes without the engagement of the community. This panel will discuss the links between gender issues and the rights of sexual minorities, and law and social justice as a communal goal.

Moderator:

- **Per Wickenberg**, Professor and Director, Sociology of Law, Lund University, Sweden

Panelists:

- **Leonardo Raznovich**, Director of the Division for Law and Dispute Resolution, Canterbury Christ Church University, United Kingdom
- **Irina Schmitt**, Post-doc, Lund University, Sweden
- **Slobodanka Krivokapić**, Montenegro

## ***Sunday, October 25***

09:00 – 11:00

Session 2, Part 4 — Legal, Cultural and Social Contexts: Human Rights, Sexual Orientation Law and Social Development at the International and European Level — Sexual Minorities, Anti-discrimination Law and Equal Rights

The *Toonen* case offered hope that international legal instruments, institutions and law might offer solutions. More recent rulings, such as *Young v. Australia* suggest that international law requires some level of legal protection for same-sex couples. This panel will discuss the extent to which international law and European law have helped to advance equality for sexual minorities. The panel will also consider the relationship of law and society in the context of the LGBT social movement, and how law affects, and is affected by, social change.

Moderator:

- **Markus Kotzur**, Germany



Panelists:

- **Håkan Hydén**, Professor in Sociology of Law (Chair) and Associate Professor in Civil Law, Holder of the Samuel Pufendorf Professorship, Lund University, Sweden
- **Brad Sears**, United States
- **Adam Bodnar**, Associate Professor, Warsaw University, Human Rights Chair, head of the Legal Division at the Helsinki Foundation for Human Rights, Poland
- **Jovan Kojičić**, Montenegro

11:00 – 11:15

Break

11:15 – 12:50

### Session 3 — Homophobia and Transphobia in the Balkans and Experiences in Other Countries

The problem of homophobia and transphobia is not unique to the Balkans. Changing negative social attitudes is an important part of the solution to the problem of equality for sexual minorities. This panel will discuss some of the strategies that have been used in various countries to combat this social problem and to move towards equality, including Croatia, Montenegro and Hungary.

Moderator:

- **Irina Schmitt**, Sweden

Panelists:

- **Sanja Juras**, European Commission on Sexual Orientation Law (ECSOL), NGO Law Reform Team, Kontra, Croatia
- **Tea Gorjanc Prelević**, Action for Human Rights, Montenegro
- **Tamás Dombos**, Researcher at the Center for Policy Studies, Central European University, Hungary

12:50 – 14:00

Lunch Break

14:00 – 15:30

### Session 4 — Military And Police Encounters: Protection for LGBT People

In many countries of the world, the police and the military are clearly used as agents of the state to oppress sexual minorities. In countries such as those in the Balkans where homosexual acts are no longer criminal, the role of the police and military should be to protect the rights of LGBT people as they do all citizens. This panel will discuss the evolving relationship between the police and military and the LGBT communities in Sweden, Canada and Serbia, and the implications for the Balkan region.

Moderator:

- **Jovan Kojičić**, Montenegro

Panelists:

- **Ljulja Đonaj**, High Police Commissioner, Department of Planning in the Police Directorate of Montenegro
- **Petra Jäppinen**, Military Personnel Officer, LGBT Advisor, Sweden
- **Douglas Elliott**, Canada
- **Vladimir Veljković**, Belgrade Pride, Serbia

15:30 – 15:45

Break

15:45 – 17:45

Session 5 — Plenary: The Future of Rights for Sexual Minorities

The recent situation in Lithuania makes it clear that progress toward equality for sexual minorities is not inevitable, even in Europe. However, hope for progress can also be found in international examples. Countries such as South Africa demonstrate that even countries with the very worst human rights records can change and make equality a legal and social goal. What lies ahead for sexual minorities? Where will progress be made, and how? Will the Balkans be part of progress on these issues?

Moderator:

- **Per Wickenberg**, Sweden

Panelists:

- **Petra Frantziach**, Ministry of Justice, Germany
- **Ulrike Lunacek**, Member of the European Parliament for the Green Group, Co-Coordinator Foreign Affairs Committee, Rapporteur for Kosovo, LGBT Intergroup.
- **Gordana Lukač Koritnik**, Gender Equality Ombudswoman, Croatia
- **Saskia Eleonora Wieringa**, Director of the International Information Center and Archives of the Women's Movement in Amsterdam, Academic Director of the European Sexuality Research Center, and Professor of Gender and Women's Same-Sex Relations Cross-Culturally at the University of Amsterdam, Netherlands

17:45 – 18:00

Break

18:00 – 19:00

Plenary: Closing Remarks

This panel will review the conference discussions, and suggest future possibilities for helping move toward equality and justice in the Balkans for sexual minorities

Moderator:

**Douglas Elliott**, Canada

Speakers:

- **Håkan Hydén**, Sweden
- **Markus Kotzur**, Germany
- **Brad Sears**, United States
- **Ferhart Dinosha**, Montenegro
- **Jovan Kojičić**, Montenegro

19:30

Closing Celebrations

# Anticipated Results and Impact of this Conference

## Anticipated short to medium-term results

- Reaffirm the principle of universality of human rights as described in the Universal Declaration of Human Rights - Article 1 of the Universal Declaration, "all human beings are born free and equal in dignity and rights".
- Promote and affirm the principle of non-discrimination, which requires that human rights apply equally to every human being regardless of sexual orientation or gender identity or expression to participate fully, equally and openly in every part of life.
- Promote social, cultural and legal awareness of sexual orientation and gender issues.
- Promote and affirm tolerance in society.

## Anticipated long-term results

- Encourage initiatives and cultural activities to fight discrimination based on sexual orientation and gender identity/expression.
- Change attitudes and behaviour and reorient society's perspective on issues of sexual orientation and gender identity/expression.
- Ensure that there are adequate legal prohibitions against all forms of discrimination and violence in the Balkans.
- Encourage government to achieve not only de jure but also de facto equal rights and opportunities regardless of sexual orientation and gender identity and expression.
- Strengthen the democratic development of Balkan societies.

## Local impact of this conference

- Reorient society's perspective on issues of sexual orientation and gender identity and expression through participation and discussion.
- Challenge current attitudes and behaviours in society.
- Support a democratic, tolerant and open society.
- Move towards equality for all people.
- Support the goals of European integration for Balkan nations.

## International impact of this conference

- Increase awareness in the Balkans about international and European standards, situations, legal structures and social practices regarding LGBT issues.
- Learn and implement strategies for overcoming obstacles to full equality.
- Academic support to help reorient society's perspective on issues of sexual orientation and gender identity and expression.
- Promote academic exchange and discussion on issues of sexual orientation and gender identity and expression.

## **Methodology for Evaluating the Results and Impact of this Conference**

- Academic presentations and discussion, including a full conference report.
- Resolutions adopted at the conference.
- Dialogue and lobby of governments regarding problems and perspectives of sexual orientation and gender identity and expression issues.
- Co-operation with international and European organizations and institutions to exchange perspectives, strategies and solutions to obstacles to full equality.