



DANISH INSTITUTE FOR
HUMAN RIGHTS

COWI

The social situation concerning homophobia and discrimination on grounds of sexual orientation in Slovenia

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A. A Summary of the Overall Situation of LGBT Persons

- [1]. The attitudes toward LGBT persons in Slovenia, or at least homosexuals, have moved in a positive direction in recent years.
- [2]. Same-sex registered partnership was introduced in 2005, but does not grant access to adoption, assisted insemination or pensions. Still, equal rights and protection against discrimination is part of the Constitution and penal code. The latter, however, does not cover incitement to hatred based on sexual orientation.
- [3]. Though there is little official data regarding conditions for LGBT persons, it is evident that they continue to experience discrimination in Slovenia. In a 2005 survey, 53 per cent of lesbian and gay respondents experienced violence because of their sexual orientation.

B. The Collection of Data

- [4]. The material for this report has been collected from four sources:
 - A legal country report carried out for this study, written by the head of the analysis and international cooperation department of the Constitutional Court of Slovenia, Arne Marjan Mavcic, and Matej Avbelj.¹
 - A sociological country report carried out for this study reviewing available data on homophobia and discrimination on grounds of sexual orientation, written by Dr. Roman Kuhar, assistant professor, Peace Institute, Ljubljana.²
 - Data collected through interviews held in Slovenia with the LGBT NGO *Legebitra*, *The Ministry of Health*, *The Office of Equal Opportunities* and *The Human Rights Ombudsman of Slovenia* (HRO).
 - Data collected through an online questionnaire sent out to the stakeholders mentioned above.

¹ A.M. Mavcic, M. Avbelj (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Slovenia*, FRALEX.

² R. Kuhar (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Slovenia*, Sociological Country Report.

C. Key Findings

C.1. Attitudes Toward LGBT persons

- [5]. Surveys examining acceptance and attitudes toward homosexuality have been carried out on a European level in 2008 and 2006.
- [6]. The 2008 *Eurobarometer* asked, 'How would you personally feel about having a homosexual (gay man or lesbian woman) as a neighbour?' (1 meaning 'very uncomfortable' and 10 meaning 'very comfortable'). The figure in Slovenia was 7.5, with an EU average of 7.9. Romania was the lowest with 4.8.³
- [7]. In the 2006 Eurobarometer, attitudes toward same-sex marriage were examined in every Member State. Forty-two per cent of EU citizens agreed that such marriages should be allowed throughout Europe; the figure was 31 per cent in Slovenia (Netherlands scored the highest with 82 per cent and Romania the lowest with 11 per cent). With regard to adoption, the level of acceptance decreases in the EU and in Slovenia. Thirty-one per cent of Europeans felt that homosexual couples should be allowed to adopt children throughout Europe; in Slovenia the figure was 17 per cent (Netherlands scored highest with 69 per cent and Poland and Malta the lowest with 7 per cent).⁴
- [8]. Results from Slovenian opinion polls (social distance scales) indicate that attitudes toward homosexuals have moved in a positive direction in recent years. While in the 1990s and early 2000s, some 55 per cent of those surveyed did not want a homosexual as a neighbour, that percentage decreased to 35 per cent by 2005.⁵
- [9]. Education is an important factor, with those holding higher education degrees expressing less homophobia.⁶
- [10]. On the scale of negativity toward homosexuality,⁷ which combines indicators on social distance and justification of homosexuality from the European Value Survey, Slovenia is placed between the moderately homonegative countries (old EU countries) and the most negative countries (recent EU members and non-EU members).

³ European Commission (2008) *Special Eurobarometer 296. Discrimination in the European Union: Perceptions, Experiences and Attitudes*, chapter 9.

⁴ Eurobarometer 66 (2006), available at:

http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_en.pdf, pp. 43-46.

⁵ N. Toš et al. (1999) *Vrednote v prehodu II (Slovensko javno mnenje 1990-1998)* [Values in Transition II (Public Opinion in Slovenia 1990-1998)], Ljubljana: FDV IDV, CJMMK.

N. Toš et al. (2002) *Vrednote v prehodu III (Slovensko javno mnenje 1999-2002)* [Values in Transition III (Public Opinion in Slovenia 1999-2002)], Ljubljana: FDV IDV, CJMMK.

⁶ R. Kuhar (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Slovenia*, Sociological Country Report.

⁷ Štulhofer, I. Rimac (2007) 'Determinants of Homonegativity in Europe', in: *Journal of Sex Research*, in print.

C.2. Criminal Law - Hate Crime

- [11]. Homophobic hate crime and hate speech in Slovenia is covered and prohibited by the Constitution and a variety of legislative acts. Article 63 of the Constitution prohibits ‘any incitement to national, racial, religious or other discrimination, and the inflaming of national, racial, religious or other hatred and intolerance’. Inflaming of national, racial or religious hatred is prohibited by the *Kazenski zakonik* [Penal Code], which also prohibits discrimination. The act also penalises a violation of the right to equality, including on the basis of sexual orientation.⁸ The limitation of hate crimes to race, ethnicity and religion (thus not including sexual orientation) has been criticized by the *Human Rights Ombudsman* office, which identified hate speech against LGBT persons on the Internet as an emerging problem.⁹
- [12]. There are no official statistics available on hate crime committed on the grounds of sexual orientation in Slovenia.
- [13]. Research on the everyday lives of gays and lesbians in Slovenia¹⁰ showed that 53 per cent of persons surveyed (N=443) have been victims of violence provoked by their sexual orientation. The most common forms of violence was psychological (91 per cent), followed by physical (24 per cent) and sexual (6 per cent). The majority of violent incidents occurred in public spaces. In most cases (63.2 per cent for men and 57.1 per cent for women) the perpetrators were strangers. Similar results were found in another survey on sexual orientation discrimination in Slovenia.¹¹ The research indicated that nearly 86 per cent of hate crime committed against gays and lesbians was never reported to the police, and police reacted positively and constructively in only 30 per cent of incidents reported.
- [14]. In recent years an increase in hate crime before and after the annual Gay Pride parade has been recorded and reported in the media. Most of the incidents occurred at night, when persons were returning home from Pride events.¹²

C.3. Freedom of Assembly

- [15]. Article 42 of the Slovenian Constitution guarantees the right to freedom of assembly and association. Since Independence in 1991 no LGBT event has been prohibited or obstructed, except for the celebration of the 10th anniversary of the LGBT movement in

⁸ A.M. Mavcic, M. Avbelj (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Slovenia.*, FRALEX.

⁹ Field trip meeting with the *Human Rights Ombudsman of Slovenia* (Slovenia, 29 April 2008).

¹⁰ A. Švab, R. Kuhar (2005) *The Unbearable Comfort of Privacy: Everyday Life of Gays and Lesbians*. Politike: Ljubljana. [e-book available at: http://www2.mirovni-institut.si/eng_html/publications/pdf/MI_gay_eng.pdf]

¹¹ T. Greif, N. Velikonja (2001) ‘Anketa o diskriminaciji na osnovi spolne usmerjenosti’, *Lesbo* 11/12, http://www.ljudmila.org/lesbo/raziskave_porocilo1.htm (last accessed March 29, 2008)

¹² R. Kuhar (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Slovenia*, Sociological Country Report.

Slovenia, which was supposed to take place at the Ljubljana Castle. The leaseholder at the Castle cancelled the event when he discovered that the event was LGBT-related.¹³

C.4. Family and Other Social Issues

- [16]. After nearly 20 years of public debate on registered same-sex partnerships, as well as numerous LGBT organisation initiatives to set up a legal framework, the Act was passed on 22 June 2005.¹⁴
- [17]. The *Same-Sex Registered Partnership Act* was drafted and adopted by the right wing government without the support of LGBT NGOs. The Act gives partners 'next of kin' status and grants limited inheritance rights. No social, pension or similar rights are granted, and the Act is therefore considered discriminatory by LGBT organisations. On those grounds, the Act was taken to the Constitutional Court, which is expected to rule at the time of writing this report.
- [18]. Second-parent adoption is not possible for same-sex couples, and same-sex couples cannot adopt children. Since 2001 medically assisted insemination is not formally available for women who are not in a heterosexual partnership.

C.5. The Labour Market

- [19]. The right to equal treatment in employment and the public sphere is guaranteed by Article 14 of the *Ustava Republike Slovenije* [Constitution of the Republic of Slovenia].¹⁵ This right is further detailed in the *Zakon o delovnih razmerjih (ZDR)* [Employment Relationships Act], which explicitly prohibits direct or indirect discrimination on the basis of sexual orientation. In 2004 the *Zakon o uresničevanju načela enakega obravnavanja* [Implementation of the Principle of Equal Treatment Act] was adopted as a legislative measure implementing Directive 2000/43/EC and Directive 2000/78/EC.
- [20]. Victims of discrimination in employment can turn to special equality bodies instituted by Slovenian legislation (*zagovornik enakosti, inšpekcijske službe, varuh človekovih pravic*, [the Equality Advocate, the Inspection Service and the Ombudsman]), as well as the courts. In the latter case, the legislation defines the burden of proof in favour of discrimination victims. NGOs have the right to participate in equality body proceedings, but not judicial proceedings.

¹³ R. Kuhar (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Slovenia*, Sociological Country Report.

¹⁴ This and the following two paragraphs on Family and Other Social Issues: R. Kuhar (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Slovenia*, Sociological Country Report.

¹⁵ This paragraph: A.M. Mavcic, M. Avbelj (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Slovenia*. FRALEX.

- [21]. As official statistics on cases of sexual orientation discrimination are unavailable, few cases have been reported and none has established that discrimination took place. From May 2004 until March 2007, discrimination cases reported to *The Human Rights Ombudsman of Slovenia* show that 27 (about 5 per cent of total cases) were related to sexual orientation.
- [22]. On the basis of the above-mentioned legislation, *The Office of Equal Opportunities* handled seven cases on discrimination on the ground of sexual orientation (in relation to employment harassment, hate speech and social services, among other spheres).¹⁶
- [23]. Research showed that 49 per cent of LGB Slovenians are not out to anyone at work or only one or two colleagues, as they fear negative reactions.¹⁷ However, among those that were out at their workplace, 84 per cent reported no increase in hostility or harassment. Approximately 3 per cent of respondents believe they have been dismissed because of their sexual orientation.

C.6. Education

- [24]. The official curriculum for the 9-year primary school system in Slovenia explicitly mentions sexual orientation once. In fifth grade, pupils are expected to learn about diversity, including different sexual orientations. However, textbooks used for courses do not always mention sexual orientation or same-sex families.¹⁸
- [25]. According to survey research, 79 per cent of LGB Slovenians do not recall homosexuality being discussed in school.¹⁹ The same research showed that out of the 53.3% of LGBT people surveyed who reported experiencing violence due to their sexual orientation, in 22.5% of cases the perpetrators were schoolmates.²⁰
- [26]. Representatives from LGBT NGOs are occasionally invited to discuss homosexuality in schools. Such invitations are rare, however, as discussion about homosexuality in education is often considered 'promoting homosexuality'.²¹

¹⁶ Field trip meeting with *The Office of Equal Opportunities* and *The Human Rights Ombudsman of Slovenia* (Slovenia, 29 April 2008).

¹⁷ A. Švab, R. Kuhar (2005) *The Unbearable Comfort of Privacy: Everyday Life of Gays and Lesbians*, Politike: Ljubljana. [e-book available at: http://www2.mirovni-institut.si/eng_html/publications/pdf/MI_gay_eng.pdf]

¹⁸ R. Kuhar (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Slovenia*, Sociological Country Report.

¹⁹ A. Švab, R. Kuhar (2005) *The Unbearable Comfort of Privacy: Everyday Life of Gays and Lesbians*, Politike: Ljubljana. [e-book available at: http://www2.mirovni-institut.si/eng_html/publications/pdf/MI_gay_eng.pdf]

²⁰ A. Švab, R. Kuhar (2005) *The Unbearable Comfort of Privacy: Everyday Life of Gays and Lesbians*, Politike: Ljubljana. [e-book available at: http://www2.mirovni-institut.si/eng_html/publications/pdf/MI_gay_eng.pdf]

²¹ R. Kuhar (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Slovenia*, Sociological Country Report.

C.7. Health Service

- [27]. Research on sexual orientation discrimination in Slovenia showed that 7 per cent of respondents had been advised to undergo psychiatric treatment because of their homosexuality. Almost 8 per cent of respondents experienced discrimination in healthcare services.²²
- [28]. In Slovenia men who have had sexual contact with other men are not allowed to donate blood.
- [29]. HIV positive persons are socially invisible and stigmatized in Slovenia. In 2004, the first AIDS patient in Slovenia came out on national television. A 24-year old gay man lost his job next day, however, due to his HIV positive status. In 2006, one HIV-positive man was prevented from entering his flat when his neighbors learned of his status.
- [30]. The *Ministry of Health* finances HIV prevention programmes combating stigma and providing anonymous testing and counselling.²³

C.8. Religion

- [31]. The Roman Catholic Church includes 58 per cent of self-declared Catholics (census 2002) and is considered an influential religious institution in Slovenia. The Church adheres to the Vatican's moral condemnation of homosexuality. It stresses, however, its human standpoint toward homosexuals, and says that the Church is not going to turn its back on them, but they must purify themselves. Bishop Kramberger of Maribor stated in an interview with Radio Slovenia: 'The Church cannot accept homosexuals, but it may never sentence them. The Church has to stand by them and help them get rid of their burden.'²⁴
- [32]. The Church took part in the public debate on registered same-sex partnership. Some representatives of the Roman Catholic Church did not condemn the legal regulation of homosexual partnership. However, representatives claimed that same-sex partnership should not be made equal to marriage. Roman Catholic views on homosexuality are also shared by other religious institutions in Slovenia, but the representatives of these institutions have fewer chances to present their views in the media.²⁵

²² T. Greif, N. Velikonja (2001) 'Anketa o diskriminaciji na osnovi spolne usmerjenosti', *Lesbo* 11/12, http://www.ljudmila.org/lesbo/raziskave_porocilo1.htm (last accessed March 29, 2008)

²³ Field trip meeting with the *Ministry of Health* (Slovenia, 29 April 2008).

²⁴ R. Kuhar (2006) 'Homosexuality as a Litmus Test of Democracy and Post-Modern Value Orientations', in: S.P. Ramet, D. Fink-Hafner (eds.) *Democratic Transition in Slovenia: Value Transformation, Education, Media*, Texas A&M University Press, pp. 233-258.

²⁵ R. Kuhar (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Slovenia*, Sociological Country Report.

C.9. Sports

- [33]. In 2007 a cross-country skier came out publicly in an interview for LGBT magazine *Narobe*. She claims that she has not experienced any negative reactions from couches or co-contestants, except that some feel uncomfortable around her.²⁶
- [34]. No other data is available.

C.10. Media

- [35]. A study on print media coverage of homosexuality in Slovenia from 1970 to 2000 indicated that coverage was favorable or at least neutral toward LGBT persons.²⁷ Other media representation of homosexuality was marked by discourse that reproduced stereotyped, medicalised, secretive and sexualized images of gays and lesbians. During the 1990s, normalised images of homosexuality increasingly began to enter the media. This qualitative shift was not unproblematic, however, as homosexuality was often seen as acceptable only if it was depoliticized and entertaining.
- [36]. In recent years the issue of registered same-sex partnerships has often been reported in a 'pros and cons' scheme. This shows that the media are not always aware that intolerant public opinion on the issue of registered partnerships could legitimize intolerance and homophobia.²⁸
- [37]. Bisexuality and transsexuality are rarely depicted in the media. When these topics do emerge, they are most often reported in a sensationalistic manner.²⁹

C.11. Asylum and Subsidiary Protection

- [38]. The protection of aliens under Slovenian law, which includes the right to refugee status and the right to subsidiary protection, is regulated by the new *Zakon o mednarodni zaščiti* [International Protection Act]. Persecution grounds entitling an individual to refugee status include, among others, the membership of a 'particular social group'. The Act

²⁶ M. Mojškerc (2007) 'Raje pridem do cilja, kot pa da odstopim!', *Narobe* 4, <http://www.narobe.si/stevilka-4/portret-barbara-jezersek.html> (last accessed March 11, 2008).

²⁷ R. Kuhar (2003) *Media Representations of Homosexuality: An Analysis of Print Media in Slovenia, 1970-2000*, Mediawatch: Ljubljana. [e-book available at: <http://mediawatch.mirovni-institut.si/eng/mw13.htm>]

²⁸ R. Kuhar (2006) 'Media Representations of Minorities', in: Petković, Brankica et al.: *Media for Citizens*, Peace Institute: Ljubljana, pp. 123-172. [e-book available at: <http://mediawatch.mirovni-institut.si/eng/mw18.htm>]

²⁹ R. Kuhar (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Slovenia*, Sociological Country Report.

explicitly enables LGBT persons to acquire refugee status on the ground of sexual orientation persecution.³⁰

- [39]. A gay couple from Kosovo and a gay man from Iran have applied for, and been denied, asylum. In both cases appeals are pending.³¹
- [40]. Regarding the couple from Kosovo: In an interview for the LGBT magazine *Narobe*, the refugees explained that while the initial contact with police was supportive and understanding, the couple was treated as criminals at the asylum centre hearing in Ljubljana. They were interrogated separately and had to explain how one of them was raped several times. They suspect their application was rejected as they could not provide the exact date when the war ended and the temperature on the day of the rape. Furthermore, one staff member at the asylum centre told them that homosexuality can be cured with therapy.³²
- [41]. The case of possible hate related police violence against the couple from Kosovo is still being heard by the *The Human Rights Ombudsman*.

C.12. Family Reunification

- [42]. Article 53 of the Slovenian Constitution provides that the state shall protect the family, motherhood, fatherhood, children and young persons, and shall create the necessary conditions for such protection.³³
- [43]. Same-sex partnership, though legally regulated in the Registered Same-Sex Partnership Act, is not recognised as a legal ground to exercise the right to family reunification. Partners in registered same-sex partnerships are not recognised as next of kin.³⁴

C.13. Transgender Issues

- [44]. The discrimination of transgender persons is encompassed in a constitutional prohibition of discrimination on the basis of 'any other personal circumstance'. However, there are no laws explicitly addressing the status and position of transgender persons. Neither is

³⁰ A.M. Mavcic, M. Avbelj (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Slovenia*, FRALEX.

³¹ Field trip meeting with *Legebitra* (Slovenia, 28 April 2008).

³² R. Kuhar (2007) 'Svojega življenja ne bi spremenil za deset vaših normalnih življenj', *Narobe* 2, <http://www.narobe.si/stevilka-2/intervju-s-kadrijem-in-demirjem.html> (last accessed March 10, 2008).

³³ A.M. Mavcic, M. Avbelj (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Slovenia*, FRALEX.

³⁴ R. Kuhar (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Slovenia*, Sociological Country Report.

the change of name following a possible gender reassignment specifically regulated.³⁵

- [45]. It is up to individual doctors to decide whether to refer transsexual clients to specialists who then decide on the appropriate sex reassignment process. The treatment is free of charge.³⁶
- [46]. No research has been conducted on transgender issues in Slovenia. Transgender persons are largely invisible in Slovenia, except from one transsexual and one transvestite celebrity. The latter was a member of a transvestite trio *Sestre* [Sisters] who won the selection for the national representative at the Eurovision Song Contest in 2002. Their victory triggered homophobic and xenophobic responses in public and in the Slovenian Parliament.³⁷

C.14. Multiple Discrimination

- [47]. There has been no specific research done into LGBT ethnic or religious minorities, elders or disabled persons. There are no specific ethnic minority LGBT organisations or organisations for elderly or disabled LGBT persons.³⁸

C.15. Other Areas of Concern

- [48]. There is a constant lack of public funding for LGBT social and political activities. In 2007 *Legebitra* sued the *Ministry for Work, Family and Social Affairs*, claiming that their application for tender on preventive programmes for children and youth was rejected for homophobic reasons. The court ruled in favour of *Legebitra*.³⁹

D. Good Practice

- [49]. Good practices are described in Annex 1.

³⁵ A.M. Mavcic, M. Avbelj (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Slovenia*, FRALEX.

³⁶ Field trip meeting with the *Ministry of Health* (Slovenia, 29 April 2008).

³⁷ R. Kuhar (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Slovenia*, Sociological Country Report.

³⁸ R. Kuhar (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Slovenia*, Sociological Country Report.

³⁹ R. Kuhar (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Slovenia*, Sociological Country Report.