

## QUICK GUIDE TO ADDRESSING SEXUAL RIGHTS ISSUES DURING THE UNIVERSAL PERIODIC REVIEW ON SLOVENIA

These Guides include:

- A list of issues mentioned in the National Report, the Compilation of official UN Documents and the Summary of Other Stakeholders Submissions, with references to the particular paragraphs in which they can be found.
- In those cases in which the Sexual Rights Initiative has submitted reports, we have included an Annex with our recommendations.

References in the two working languages of the Council (English and French) have been kept in their original language.

**Issues** are highlighted-References in the National Report are *in Italics*.

**Recommendations** -including those from UN treaty-monitoring bodies, are at the end of the document.

All sexual rights issues that do not relate specifically to women are referred to in this Guide. Sexual rights' issues referring specifically to women -as well as other women's issues- are referred to in the Guide on Women's Issues

ISSUE	N Report	Compilation	Summary
<b>Equality and Non-Discrimination based on sexual orientation / gender identity</b>	Constitutional court decision to amend unequal inheritance legislation for same-sex couples (20) Family Code under debate introduces equal status to heterosexual and same-sex partnerships (24)		Homosexual civil unions. Unequal legislation on social, family and inheritance rights (9) Law on Registered Same-Sex Partnership. Unequal rights in social security (32)
<b>HIV/AIDS</b>	Measures to eliminate stigmatization (21)		
<b>intolerante / Incitement to hatred</b>	Broadcasting inciting discrimination or hatred is forbidden (49)		Homophobic and intolerant statements by politicians (8)
<b>Trafficking Forced prostitution</b>	Interdepartmental working group, amendments to the Penal Code, preventive awareness-raising measures, training of judiciary personnel (41) Projects for assistance and protection of victims (42, 43)		Efforts in preventing and combating (17)
<b>Trafficking/sexual exploitation /violence against children</b>	Victims' rights protection (41)	No specific plan of action to cover all aspects of the OP-SC (8) Criminal offence. Lack of entity to coordinate OP-CRC-SC implementation (18) Legislation criminalizes pornography but not all offences (19) Weak legislation on offences referred to in OP-CRC-SC (22)	

OP-CRC-SC (Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography) ratified.

### **Equality and Non-Discrimination based on sexual orientation /gender identity**

*Decision U-I-425/06-10 of July 2009 of the Constitutional Court established the inconsistency of Article 22 of the Registration of a Same-Sex Civil Partnership Act regulating inheritance with Article 14, paragraph 1, of the Constitution. The Court establishes that the position of partners in registered same-sex partnerships is in its essential factual and legal aspects comparable with the position of spouses as regards the right to inheritance from a deceased partner. The differences in the regulation of inheritance between spouses and between partners in registered same-sex partnerships are therefore not based on any objective, non-personal circumstance, but on sexual orientation. Until the established inconsistency is remedied, the same rules apply for inheritance between partners in registered same-sex partnerships as apply for inheritance between spouses in accordance with the Inheritance Act. The National Assembly is obliged to remedy the established inconsistency within six months from the publication of this decision (Para 20, NR) A new Family Code that is currently under public debate regulates comprehensively the entire family law, strengthening the influence of the state on relations within the family for the child's benefit. The novelties include (among others) the introduction of equal status to same-sex partnerships and heterosexual partnerships. (Para 24, NR)*

Sexual Rights Initiative (SRI) referred to the 1997 penal code decriminalizing homosexual sex and permitting homosexual civil unions. SRI informed that in 2006 gay activists filed a complaint to the Constitutional Court because the law did not afford the same social, family, and inheritance rights as those granted to heterosexual married couples. The court had not yet issued a ruling on the matter (Para 9, Summary). In 2005, the Council of Europe Commissioner for Human Rights (CoE-Commissioner) welcomed the enactment of the Law on Registered Same-Sex Partnership, but regretted that it does not guarantee full equality for sexual minorities in the area of social security. The law falls behind increasingly common legal standards in many EU countries and the general principle of non-discrimination (Para 32, Summary)

See Recommendations, Fundación Mundial Déjame Vivir en Paz - FMDVEP (9)

### **HIV/AIDS**

*In its endeavours to eliminate stigmatization and discrimination against HIV-positive people, the Ministry of Health is co-financing NGOs fighting stigma and providing counselling and training in this area (Para 21, NR)*

### **Intolerance / Incitement to hatred**

*Media activities in Slovenia are based on the freedom of expression (). The dissemination of programming that encourages () sexual or any other inequality, or incites () sexual or any other hatred and intolerance is prohibited. Certain articles of the Media Act also refer to the human rights protection (Para 49, NR)*

*() The CoE-Commissioner also expressed concern over the homophobic and intolerant public statements made by some politicians during the discussions about the draft Law on Registered Same-Sex Partnership in the Parliament (Para 8, Summary)*

### **Trafficking /Forced prostitution**

Measures in the area of trafficking in human beings () are defined by action plans for the fight against trafficking in human beings which are drawn up every two years since 2004 by the Interdepartmental working group for the fight against trafficking in human beings, composed of representatives of the competent ministries, government offices, the National Assembly and NGOs. These action plans are aimed at defining fundamental activities () in the field of legislation on investigation and prosecution of criminal offences related to trafficking in human beings, prevention in the form of providing information, awareness raising and research activity, assistance to and care for victims of trafficking in human beings, training, education and international cooperation. On the basis of these action plans, amendments to the Penal Code were adopted in 2004 in the field of prostitution and trafficking in human beings; particularly a new criminal offence of trafficking in human beings (Article 387(a)) was introduced; while Articles 185 (pimping) and 186 (brokering prostitution) were replaced by a new Article 175 (exploitation through prostitution) () Preventive awareness-raising measures addressed to the public comprise: the Government's webpage, making videos, reprinting and distributing materials, addressing target population within NGO projects co-financed by individual ministries, educating expert public, especially the Police, in cooperation with NGOs, and training and educating NGOs by internal experts. There are not many final judgments from the area of trafficking in human beings, therefore particular attention is also devoted to providing information for and training of judiciary personnel (Para 41, NR). The project aimed at the victims of trafficking in human beings has been implemented since 2008 on the basis of public tenders and financed by the Ministry of the Interior () and the Ministry of Labour, Family and Social Affairs () (Para 42, NR). In 2008, the Ministry of Foreign Affairs financed, for the fifth consecutive year, the project titled "Implementing the mechanism for reconnaissance, assistance and protection of the victims of trafficking and/or sexual abuse in asylum proceedings in Slovenia" (PATs). There is a regional component to the project, which is implemented also in Croatia and Bosnia-Herzegovina (Para 43, NR)

In 2005, the CoE-Commissioner welcomed the efforts in preventing and combating trafficking in human beings. It also welcomed the reflection period of three months, which is granted for all victims of trafficking in Slovenia, but expressed concern about the strict conditions for issuance of even a temporary residence permit (Para 17, Summary)

### **Trafficking/sexual exploitation/violence against children**

The Act amending the Criminal Procedure Act was adopted, which stipulates that minors who are victims of trafficking in human beings shall also be entitled to an authorised person responsible to care for their rights (Article 387(a) of the Penal Code) (Para 41, NR)

While welcoming the adoption of the Action Plan for the fight against human trafficking for the period 2008-2009, The Committee on the Rights of the Child (CRC) was concerned that there is no specific plan of action covering all aspects of the Optional Protocol (Para 8, Compilation). In 2009, CRC noted with appreciation the amendments of the Penal Code in 2004 and 2008, which, inter alia, introduced human trafficking as a criminal offence. While noting the appointment, in 2003, of an inter-ministerial working group for combating trafficking in human beings, CRC was concerned at the lack of a national entity adequately resourced and mandated to coordinate all areas covered by OP-CRC-SC (Para 18, Compilation). CRC noted with appreciation the 2008 amendment to the Penal Code to criminalize the mere possession of child pornography. However, it remained concerned that the legislation does not criminalize all the acts constituting offences () (Para 19, Compilation). In 2009, CRC was concerned at the weak enforcement of legislation relating to offences referred to in OP-CRC-SC, in particular, the prosecution and punishment of those responsible for acts involving the sale of children, child prostitution and child pornography.

See Recommendations, CRC (8, 19, 22); the ILO Committee of Experts (19)

## **Suggested Questions and Recommendations**

### **CRC**

- § That Slovenia develop, in consultation and cooperation with all relevant stakeholders, a national plan of action aimed at addressing **sale of children, child prostitution and child pornography**, and provide adequate human and financial resources for its implementation (Para 8, Compilation)
- § That Slovenia review its legislation, in particular its Penal Code, to bring it into full conformity with OP-CRC-SC. CRC also recommended that Slovenia **criminalize the production or dissemination of materials** advertising the sale of children, child prostitution or child pornography, **in line with OP-CRC-SC** (Para 19, Compilation)
- § That Slovenia take the appropriate measures to expand **training activities** for the judiciary, prosecutors, police and other public officials so as to ensure the **prosecution and punishment of perpetrators** of acts prohibited by OP-CRC-SC. It also recommended that Slovenia undertake **evaluation of all the cases that did not lead to sentences** in order to identify the causes that prevented advancing in the prosecutions and punishments (Para 22, Compilation)

### **The ILO Committee of Experts**

- § To provide a definition of the term "minor" under section 187 of the Penal Code (with respect to the use, procuring or offering of a child for the production of **pornography or for pornographic performances**). It also asked Slovenia to indicate whether the use of a child under 18 years of age for **prostitution** is prohibited, and to provide a copy of the relevant legal provision

### **FMDVEP**

- § That Slovenia recognize the **Rights of homosexuals to adopt a child** (Para 9, Summary)

### **SRI**

- § To amend the **Law on Registered Same-Sex Partnership** -regarding the principle of non-discrimination- to ensure non-heterosexual couples equal rights as those granted to heterosexual married couples in social, family and inheritance issues.
- § To implement the necessary measures to guarantee that **human rights violations will not be perpetrated against LGBT persons**, as well as to investigate and, when needed, to punish the discriminatory or abusive behaviour from any member of the society, including politicians, government representatives and security forces.