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Serbia: Discrimination against Lesbian Women on the Basis of Sexual Orientation

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This report has been drafted by Labris - Lesbian Human Rights Organization, Belgrade, Serbia. The report follows relevant articles of the Convention, identifying issues that are considered as a priority, and offers recommendations.

Labris is an organization which considers the right to different sexual orientation one of the basic human rights and works on the elimination of all forms of violence and discrimination against lesbians and women of different sexual orientation than heterosexual. Founded in 1995, Labris has thorough knowledge about the situation of lesbian women in Serbia and extensive experience in lesbian and feminist activism.

We urge the Committee to request from the Serbian Government to provide information about all measures undertaken to reduce vulnerability to discrimination and violence of lesbian women including by providing:

1. Information, whether the existing laws and norms allow lesbian women to register partnership and what measures from existing Anti-discriminatory Strategy and related Action Plan have been conducted to secure this right?
2. Information on the measures have been undertaken to ensure that discriminatory content in high school textbook have been removed and right to equality in education had been secured?
3. Information about measures aimed at ensuring equal access of all women to state-guaranteed health care, which is provided in a non-judgmental, non-discriminatory way and responds to the specific needs of lesbian women?

Articles 1-6

Having in mind that provisions of the Convention recurrently affirm that special attention should be directed towards problems faced by specific groups of marginalized women, it is our understanding that discrimination as defined in Article 1 of the Convention, stating that “any distinction, exclusion or restriction made on the basis of sex” also includes discrimination against women on the basis of their sexuality. Therefore, not including the interests and needs of women of different sexual orientation than heterosexual would go against the spirit of inclusivity of the Convention.

Law on Biomedical assisted fertilization¹ was adopted in May 2017, Article 25 states: “Exceptionally, the right on Biomedical assisted fertilization has an adult woman, capable to work, that lives alone, capable of performing

¹ https://www.paragraf.rs/propisi/zakon_o_biomedicinski_potpomognutoj_oplodnji.html



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parental duty and is in such psychosocial condition that she can reasonably be expected to be able to perform parental duties in accordance with the law, in the child's best interest." Adoption of this law and exclusion of lesbian women in this context is discrimination by the law itself.

Since lesbian women, that have so far been one of the most neglected, marginalized and vulnerable groups of women in the Serbian society² have not been meaningfully included in the mentioned documents; it is our conclusion that this undoubtedly demonstrates a homophobic and discriminatory attitude of the Serbian Government towards lesbian women. As a result, no measures to advance the position of lesbian women have been undertaken, leaving them highly exposed to discrimination, social exclusion, violence and poverty.

Article 10: Equality in Education

Various studies have shown that educational materials (textbooks, curricula), as well as educational staff, are not gender sensitive, and promote and perpetuate traditional gender roles in all educational levels in Serbia. By extension, educational materials are containing discriminatory content³ are still in use and The Ministry of Education, Science and Technological Development of the Republic of Serbia is transferring the responsibility on other State Institutions regardless to the fact that Commissioner for the Protection of Equality made the recommendation on the responsibility for the exclusion of the discriminatory content from the high school text books⁴. As a result of this lesbian women are at high risk of physical violence, hate crimes, sexual assaults and harassment, both within and outside educational settings.

Article 11: Employment

According to the current Labour Law⁵, discrimination based on sexual orientation is forbidden. However, there is reason to believe that lesbian women are facing problems in the employment process and at the workplace, when their sexual orientation becomes known or is presumed, leaving them exposed to harassment, intimidation and humiliation. In addition, Serbian law does not recognize same-sex partnerships of any kind, which means that women in same-sex relationships do not have equal rights as people in heterosexual relationships, such as the right to social security, pension and health insurance, sickness-leaves for partners, parental-leaves for children and bereavement leaves.

Article 12: Healthcare and Family Planning

Repeated accounts demonstrate that healthcare providers are not sensitive to issues regarding non-heteronormative sexualities and they lack adequate knowledge to provide lesbian women with complete medical care, both when it comes to physical conditions and when dealing with psychological problems that lesbian women might face. Due to this, lesbian women are not comfortable disclosing details pertaining to their sexuality which could be relevant for proper medical treatment, in fear that they could be laughed at, harassed or denied medical services. Resultantly, lesbian women are often not being provided with equal access to full and professional medical care. Research of the LBT community needs showed that 8,7% had been submitted to the discriminatory conduct during gynecological

² Various studies in the past years show that levels of homophobia in Serbia are extremely high and that LGBT people increasingly face violence, threats of violence and discrimination, both in the public and private spheres. Labris records demonstrate that lesbian women are especially vulnerable when it comes to violence, both in private and public spheres.

³ labris.org.rs/sites/default/files/Analiza-diskriminatorsnog-sadrzaja-srednjoskolskih-udzbenika.pdf

⁴ <http://ravnopravnost.gov.rs/prituzba-zbog-diskriminatorsnog-sadrzaja-u-udzbenicima-na-osnovu-seksualne-orijentacije-u-oblasti-obrazovanja/>

⁵ https://www.paragraf.rs/propisi/zakon_o_radu.html



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examination.⁶ In addition, since same-sex relationships between women are not recognized as families according to Serbian law; lesbian couples are not included in matters relating to family planning, including medically assisted artificial insemination. Under current laws lesbian women (in a relationship or not) are not allowed to adopt children or to undergo medically assisted artificial insemination, putting them in an unequal situation with other women that are married.

Article 16: Marriage and Family Law

As was stated earlier, currently Serbian Family Law⁷ as well as the Constitution⁸ does not recognize same-sex unions. As a result, lesbian women in a relationship are deprived of crucial rights which normally stem from this law, namely, social and health benefits, inheritance rights, housing rights, maintenance rights, visiting rights in hospitals, etc. This makes lesbian women particularly vulnerable to social, economic and health insecurity, exclusion and poverty. This not only gravely affects lesbian women but also their children.

Recommendations:

Having outlined the most important problems that lesbian women face in Serbia, we wish to recommend that the Government of Serbia does the following:

- Recognize ongoing discrimination and human rights violations taking place against lesbian women and ensure that all existing and future measures, policies and activities related to women's rights include lesbian women as well.
- Ensure equal protection for lesbian women who are victims of violence.
- Design, implement and promote special educational measures such as revising curricula on all educational levels and textbooks, and develop trainings, both formal and informal, which are explicitly designed to change attitudes of discrimination and stigmatization against lesbian women.
- Ensure equal protection for lesbian women in employment by designing and promoting special measures to be included by both public and private employers, as well as by establishing a closer cooperation with trade/labour unions in protecting the rights of lesbian women.
- Design and implement trainings for healthcare staff on the health issues, physical and psychological, that take into account particularities of lesbian women, and establish counselling services for lesbian women.
- Ensure equal access to artificial insemination and family planning for all women irrespective of their marital status or sexual orientation.
- Ensure that same-sex relationships are legally recognized, in a manner that would provide same-sex couples with rights that are equal to rights that heterosexual couples (married and unmarried) are able to enjoy.
- Initiate and execute comprehensive research activities about the status of lesbian women in relation to all issues, both in the public and private spheres, which are outlined in the CEDAW Convention.

⁶ During the past several years Labris has documented numerous accounts of discrimination and harassment against lesbian women in the healthcare sector.

⁷ Pородični zakon, Službeni glasnik Republike Srbije, br. 18/2005

⁸ http://www.srbija.gov.rs/cinjenice_o_srbiji/ustav.php?change_lang=en