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CEDAW: INDEPENDENT SHADOW REPORT by SKUC-LL

The following shadow report was written by *Lesbian Association SKUC-LL* (Ljubljana, Slovenia). The report is structured according to the CEDAW articles as independent information and commentary to the **Fourth Periodic Report of State Parties: Slovenia (2007)**.

As a lesbian women association, active since **1987** (*SKUC-LL* was established as the first lesbian association in *Eastern Europe*), we have a long tradition of feminist and lesbian activism, very rich experience, knowledge and expertise. However, our NGO was again not involved to contribute to the fourth national report written by the *Governmental Office for Equal Opportunities of Republic of Slovenia*.

Articles 1, 2 and 3

The *Equal Opportunities of Women and Men Act*¹ adopted in 2002 does not include discrimination on grounds other than sex. We believe that this omission weakens the scope of the law. Other grounds of discrimination should be clearly stated in the law, such as disability, marital status, sexual orientation, gender identity, ethnic origin (Roma) etc., as they are especially critical contexts concerning discrimination of women in Slovenia. During the drafting of the law the written proposals submitted by *SKUC-LL* were not considered as relevant.

The *Implementation of the Principle of Equal Treatment Act*,² adopted in 2004 does not include gender identity as a discrimination ground. During the drafting of the law the written

¹ Zakon o enakih možnostih žensk in moških, Uradni list RS 59 (2002).

² Zakon o uresničevanju načela enakega obravnavanja, Uradni list RS 50 (2004).

proposals submitted by *SKUC-LL* were not considered as relevant. Gender identity is not considered as a discrimination ground in any of legal provisions in Slovenia.

We would like to state that although Slovenia is intensively developing new legislation and other measures in the areas such as violence against women, domestic violence, victim's protection programs, safe houses, young women, disabled women, reconciliation of family and professional life, reproductive health, parental protection and family benefits, and numerous measures in the field of gender equality, better participation of women in politics and decision making, at the same time **NO MEASURES** to support **lesbian women** and **lesbian couples** were taken. Due to the evident homophobic attitude of the government lesbian women remain one of the most - if not the most – neglected, deprived and marginalized group within women and wider society. According to their second class status lesbian women are exposed to higher risk for social exclusion, poverty and discrimination.

An international research into sexual orientation discrimination conducted among the LGBT in Slovenia in 2001 showed that over **49 %** of respondents had experienced violence and harassment because of their sexual orientation (within this percent **53 %** were **women**). For women, those most commonly cited as perpetrators of acts of violence or harassment were acquaintances (30%), family members (20 %) and co-workers (18 %).³

Articles 7 and 8

Lesbian group *SKUC-LL* requested from the *Governmental Office for Equal Opportunities* to take part at the drafting of national CEDAW Report and as well as to take part in the national delegation to UN session in June 2003. Our requests were rejected more than once (in 2002 and 2003) and the written (negative) answer from the government was received only after a complaint was submitted to the national NGO coordinator at the government. For the Fourth national CEDAW report our association was not invited to make a contribution. Considering the experience in 2002/2003 it seemed useless to ask the government to support our participation in national delegation in UN in October 2008.

Written proposals of *SKUC-LL* to the draft *Implementation of the Principle of Equal Treatment Act* in 2004 were not considered as relevant.⁴

In 2005 the *Registration of a Same-sex Partnership Act*⁵ was adopted, but written proposals of *SKUC-LL* and other LGBT NGOs were not considered as relevant.

In the last decade, the *Governmental Office for Equal Opportunities* rejected all applications for co-financing *SKUC-LL*'s projects or programs, regardless that *SKUC-LL* is the only lesbian women association in Slovenia.

³ Sexual Orientation Discrimination in Slovenia: Report. ILGA-Europe and *SKUC-LL*: Ljubljana (2001) (also available at the website www.ljudmila.org/lesbo). After that there is no updated or more recent research into discrimination of lesbian women or LGBT people in Slovenia. State actors show no interest in the field.

⁴ Zakon o uresničevanju načela enakega obravnavanja, Uradni list RS 50 (2004).

⁵ Zakon o registraciji istospolne partnerske skupnosti, Uradni list RS 65 (2005).

The fourth governmental CEDAW report for Slovenia says that “*Civil society organizations are important partners in the implementation of different projects, and they actively participate in ensuring gender equality by launching initiatives, reacting to legislative proposals and measures, monitoring situation, reporting on the status of women and men in Slovenia, highlighting any difficulties met by women in the enjoyment of their rights, etc. Cooperation of NGOs in the implementation of the provisions of the CEDAW is presented into more detail in the part on the implementation of individual articles of the Convention. NGOs and other civil society organizations were involved in the entire process of preparation of the Resolution on the National Programme for Equal Opportunities for Women and Men 2005 - 2013 as well as in the drawing up of this report on the implementation of the provisions of the Convention. Their cooperation has been of vital importance, since it is their work that makes possible identification and appropriate addressing of various problems in the everyday life of women and men.*”⁶

Unfortunately we have to disagree with the statement quoted above. From the report it is not evident which/who are these NGOs. At this point we have to clarify that the government should allow active participation also of lesbian women association during preparation in the process of drafting CEDAW report, national legislation concerning women and minorities, and should develop civic dialogue with lesbian and LGBT NGOs.

Article 10

Lesbian parents and couples are denied information about family planning, because their unions are not recognized as families. They have no access to family planning, reproductive health and information about medically assisted artificial insemination.

Article 11

Since 2003 the *Employment Relationship Act*⁷ is in force, prohibiting any discrimination, including discrimination on the ground of sex and sexual orientation. However the **article 89** on **dismissal** is still allowing the employer to dismiss a worker according to the employer’s personal view. This article significantly weakens the regulations of law; numerous cases were reported where lesbian women were dismissed (or refused after the employment interview), where the employers expressed their concern and disapproval with lesbian sexual orientation of these workers (or employment seekers), in case that it was disclosed.

Our research among lesbian and bisexual women in Slovenia showed that only **24 %** of questioned lesbian women were regularly employed. The low percent of employed lesbians is indicating that there is a significant problem of unemployment particularly within lesbian women.⁸

Here we would like to stress that the survey from 2001 indicated that among the LGBT over **20 %** of questioned lesbian women experienced sexual harassment at work, **10 %** off all respondents were dismissed, and over **14 %** of respondents reported that they had been denied promotion because of their sexual orientation.

⁶ Fourth Periodic Report of State Parties: Slovenia (2007), page 11.

⁷ Zakon o delovnih razmerjih, Uradni list RS 42 (2002).

⁸ Research of SKUC-LL from 1998: Sexual Orientation and Employment (www.ljudmila.org/lesbo).

Considering the fact that lesbian families are legally not recognized by Slovenian law, certain social rights, otherwise available for employed (married or unmarried heterosexual) couples, are denied to lesbian couples, such as the right to **parental-leave, sickness-leave** for spouses, **bereavement leave**, the right of transfer of **social, health and pension insurance** from employed partner to his/her unemployed spouse and the transfer to social and health benefits to the children. All of these rights and benefits are denied for partners in lesbian unions.

The *Registration of Same-sex Partnership Act* imposes the duty to take care of a registered partner if he/she is sick. But at the same time registered partners are not entitled to get a sickness-leave for partner or partner's child from the employers (who refer to the *Employment Relationship Act*).

Also, within the frame of providing family friendly employment conditions and reconciliation of family and professional life Slovenian employers do not consider lesbian unions with children as families.

Article 12

In Slovenia *Infertility Treatment and Procedures of Biomedically Assisted Procreation Act*⁹ is in force since 2001. Artificial insemination is an exclusive right for married women, as part of medical treatment for infertility. According to this law **single (unmarried) women** - including lesbians – are **denied the right** to access to medically assisted artificial insemination. We consider this a very serious case of discrimination against women based on their personal status (marital status). So far, the government did nothing to improve the law. We believe that this law creates a significant risk for discrimination of certain categories of women and contravenes the article 1 of CEDAW (i.e. “*distinction, exclusion and restriction...on the basis of marital status*”).

Our survey from 2001 indicated that **8 %** of lesbian respondents suffered because of discrimination in health services. Lesbian respondents mentioned the following examples: **negative attitudes** among gynecologists, **explicit insults** and **derisive treatment** by medical personnel. Cases were reported where doctors instructed lesbian patients to undergo a HIV test prior to the surgery, cases where gynecologists subscribe contraceptives to lesbian women against their need, and even proposals of **psychiatric treatment** of homosexuality.

Article 16

An important aspect of discrimination of lesbian women in Slovenia is unequal legal treatment of lesbian couples comparing to heterosexual (married or unmarried) couples. The *Registration of Same-sex Partnership Act*¹⁰ was adopted in 2005, however **same-sex partners** are **not equally** protected by the law, and consequently there is a high level of discrimination against lesbians and their children in many legal and social aspects (e.g. family rights, social and health benefits, pension benefits, inheritance rights, etc.). We believe that Slovenian government should act to remove this major area of inequality, which is bringing separate, partial rights, and is treating lesbian women as second-class citizens.

⁹ Zakon o zdravljenju neplodnosti in postopkih oploditve z biomedicinsko pomočjo. Uradni list RS 70 (2000).

¹⁰ Zakon o registraciji istospolne partnerske skupnosti, Uradni list RS 65 (2005).

The governmental report stresses that the Act does not allow partners to adopt a child and that it also restricts inheritance rights.¹¹ But there are other major inequalities in this law. The current law is selectively and only partially regulating: property relations, inheritance, and the payment of maintenance (during partnership and after termination), housing rights and visiting rights in the hospital. But what is most crucial - it does **not bring any rights** in the area of **social security** (social and health insurance, pension rights, family rights, tax reductions), and it does not give the status of a next-keen to the partners. Foreign partner registered to a Slovenian partner is not entitled to get a residence permit. Due to the lower rate of social and economic security of so called registered partners, there is a higher risk for social exclusion and poverty among lesbian partners.

Here we would like to stress that same-sex families in Slovenia are living in complete legal vacuum and that both partners (parents) and the children raised in these families are discriminated. The government should provide legal instruments for equal protection of same-sex partners (parents) in order to protect their children. The draft on *Marriage and Family Relationship Act* completely ignores the existence of lesbian families.

In 2006 and 2007 lesbian association *SKUC-LL* submitted written request to the *Government of Republic of Slovenia* for changes and amendments of the *Registered Same-sex Partnership Act*. In both initiatives we were rejected.

Executive Summary

There is a considerable discrimination of lesbian and bisexual women in Slovenia, within the area of equal opportunities, family relations, same-sex unions, medically assisted artificial insemination, the area of health services, social security, labor and employment, etc. The non-recognition of the role of lesbian and GLBT NGOs in the civil dialogue with the state is significant.

Recommendations

The *Government of Republic of Slovenia* should in the future make public commitment to the promoting of inclusion and participation of lesbian women in the society, and combating their exclusion. This commitment should be implemented by means of detailed strategy, which should be developed in consultation with lesbian and other LGBT NGOs, to include the following measures:

- stop the exclusion of human rights issues of lesbian women by state actors;
- stop the exclusion of lesbian and LGBT NGOs in the civic dialogue by state actors;
- improvement of legal provisions for equal recognition of same-sex relationships and families;
- legal recognition of equal right access to artificial insemination for all women, regardless to marital status or other personal circumstances;
- prevention of inequality of lesbian women within employment;

¹¹ Fourth Periodic Report of State Parties: Slovenia (2007), page 61.

- introduction of measures for promotion of equal opportunities of lesbian women and lesbian families;
- implementation of systematic research into the status of lesbian women and lesbian families in Slovenian society, with special reflection to the level of homophobic discrimination they are facing;
- implementation of systematic research with regard to access to equal opportunities of lesbian women, lesbian youth and elderly lesbian women (e.g. in the area of education, information, social security, employment, goods and services, etc.);
- development of mechanisms for efficient implementation of existing anti-discrimination provisions;
- guarantees of regular infrastructural support for operation of lesbian women associations (by providing structural and financial support for operation of NGOs).

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