

The logo for Legebitra, featuring the word "LEGBITRA" in a bold, sans-serif font. Each letter is filled with a different color from the rainbow spectrum: L (purple), E (blue), G (green), B (yellow), I (orange), T (red), R (pink), and A (light blue).

**Legebitra, TransAkcija, Škuc Magnus and ERA – LGBTI Equal Rights Association
for Western Balkans and Turkey**

**Written Contribution on the position of LGBTI persons to the
3rd CYCLE OF THE UNIVERSAL PERIODIC REVIEW
of
REPUBLIC OF SLOVENIA**

27 March 2019

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Statement of Interest

1. ERA – LGBTI Equal Rights Association for Western Balkans and Turkey in close partnership with its members and partners: Legebitra, Škuc Magnus and TransAkcija; is submitting this Written Contribution to the 3rd Cycle of the Universal Periodic Review of Republic of Slovenia, which focuses on the position of LGBTI persons in the country.
2. ERA – LGBTI Equal Rights Association for Western Balkans and Turkey¹, is an umbrella regional association operating in 9 countries (Albania, Bosnia & Herzegovina, Croatia, Macedonia, Kosovo, Montenegro, Serbia, Slovenia and Turkey) with a current membership of 57 LGBTI organisations and objectives to strengthen capacities of LGBTI organisations in the region, lobby and advocate nationally, regionally and internationally for LGBTI rights and strengthen and improve the visibility of LGBTI movement and communities.
3. The association Legebitra² (hereinafter: Legebitra) from Slovenia has evolved from an informal group called Legebitra that was founded as a project of the Student Organisation of University of Ljubljana in 1998. Its mission is to improve position of and relation to LGBT persons by continuously providing accessible, confidential and professional services. Legebitra provides support and empowerment for individuals, LGBT community, and people with HIV. Through advocacy, they contribute to improving legal protection, increasing the visibility of LGBTI people and understanding the position of people with HIV. By raising awareness of the general and professional public, they contribute to changing the attitude towards LGBTI people. With all activities, Legebitra is working towards a society where every identity is legitimate.
4. Transfeminist Initiative TransAkcija Institute³ (hereinafter: TransAkcija) enables support, informing, empowerment and alliance of transgender and gender non-conforming persons in Slovenia, and is the first and only non-governmental organization devoted to human rights of transgender persons the country. TransAkcija's mission is addressing the specificity of needs of transgender and gender nonconforming persons holistically, aiming towards justice for people of all genders.
5. Škuc Magnus⁴ exists as an association and NGO since 1972 with various departments. Department for equal opportunities where section Magnus is placed has been working with LGBT and the HIV epidemic related issues since its inception in 1984, when its members organised and started spreading information about LGBT civil and human rights. In the past few years, the activities of ŠKUC have expanded to areas such as providing information and counselling for young people, cultural and artistic activities, education, a library, archives, social affairs, prevention, as well as research activities. ŠKUC Magnus also operates local cultural centre for LGBT arts and various other cultural activities. It has also acquired the status of an association working in the public interest in the area of healthcare and culture.

¹ For more information about ERA, please visit the website: <http://www.lgbti-era.org>

² For more information about Legebitra, please visit the website: <https://legebitra.si>

³ For more information about TransAkcija, please visit the website: www.transakcija.si

⁴ For more information about Škuc Magnus, please visit the website: www.skuc.org

Legal and Policy Framework

Constitution of Slovenia

6. Equality before the law based on different personal grounds is enshrined in Article 14 of the Constitution of the Republic of Slovenia⁵. Sexual orientation, gender identity and sex characteristics are not explicitly mentioned, however the article contains a phrase “or any other personal grounds” which also implies different personal grounds.

Istanbul Convention

7. During the Cycle II of Slovenia, Turkey recommended to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, also known as the Istanbul Convention, which it signed on 8 September 2011⁶.
8. Slovenia ratified the Istanbul convention on 5 February 2015⁷. On April 7 the Government established Inter-Ministerial Working Group for monitoring the implementation of this Convention⁸. Since the ratification, the group met only twice⁹.

Antidiscrimination legislation

9. During the Cycle II of Slovenia, Senegal and Benin recommended to strengthen measures to combat discrimination and facilitate victims’ access to remedies¹⁰. Spain recommended to establish a better coordination between the different institutional bodies competent in matters of non-discrimination¹¹.
10. According to the recent data, more than a half of LGBTI people in Slovenia are uninformed about anti-discrimination laws that protect LGBTI people. When stating reasons for not reporting the most recent incident of discrimination, 55% said nothing would happen or change, 33% said they did not want to reveal their sexual orientation and/or gender identity and/or sex characteristics, while 44% that it is not worth reporting it - it happens all the time¹².
11. In the Protection Against Discrimination Act¹³, enacted in 2016, discrimination based on sexual orientation, gender identity and gender expression (hereinafter: SOGIE) is explicitly forbidden. This law is the first legal document in Slovenia explicitly mentioning SOGIE as protected grounds. However, the law does not cover sex characteristics.

⁵ Constitution of the Republic of Slovenia, <http://pisrs.si/Pis.web/pregledPredpisa?id=USTA1>

⁶ Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraph 115.18

⁷ Act Ratifying the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, <https://www.uradni-list.si/1/objava.jsp?sop=2015-02-0001>

⁸ Decision concerning the establishment of interministerial working group for monitoring the implementation of Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence

http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti_pdf/enake_moznosti/IstanbulskaSklepUstanovitev.pdf

⁹ This information is based on publicly available data.

http://www.mddsz.gov.si/si/delovna_podrocja/enake_moznosti/istanbulska_konvencija_medresorska_delovna_skupina/#c19444

¹⁰ Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraphs 115.47 and 115.52

¹¹ Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraph 115.48

¹² Life on the Margins: Survey Results of the Experiences of LGBTI People in Southeastern Europe, World Bank in cooperation with IPSOS, ERA and The Williams Institute, September 2018, p. 21, 55: <http://www.lgbti-era.org/sites/default/files/pdfdocs/0354%20Life%20on%20the%20Margins%20Survey%20results%20of%20the%20living%20experiences%20of%20lgbti%20people%20in%20south%20eastern%20europe-ilovepdf-compressed.pdf>

¹³ Protection Against Discrimination Act: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7273>

12. With the establishment of Advocate of Principle of Equality¹⁴, Slovenia got the new institution that could be helpful with tackling discrimination. However, for the most part, this institution was underfunded by the Government and therefore could not operate as required by the law and most of the effort in the last two years went to provide the institution with sufficient funding¹⁵.
13. Employment relationship Act prohibits discrimination of job seekers or workers on the basis of personal characteristics, which explicitly includes sexual orientation¹⁶.

Same-sex partnership and family rights

14. During the Cycle II of Slovenia, the delegation of Slovenia stated an important new draft of a law on same-sex civil partnerships was under public discussion¹⁷, noting that previous efforts in that regard had failed, but under the coalition Government agreement the issue had been reviewed and the new law would hopefully be adopted in 2015¹⁸. Spain expressed concerns regarding the rights of same-sex couples¹⁹ and recommended to harmonize the rights of same-sex couples with those of heterosexual couples²⁰. Croatia recommended to adopt the same-sex partnership act in order to further improve the rights of LGBTI persons²¹. Sweden noted the concern expressed by the Committee on the Rights of the Child about discrimination against the children of same-sex couples²² and recommended to regularize the status of children of same-sex couples and ensure their protection against discrimination²³.
15. Law on civil partnerships was put in public discussion by Ministry of Labour, Family, Social Affairs and Equal Opportunities in 2014, long after Family law, that would bring civil partnerships to same-sex couples was rejected on referendum in 2012²⁴. The law on civil partnership never moved from public discussion and was never put into parliamentary procedure, since later in 2014, opposition party United Left put into the parliamentary procedure amendment to existing Marriage and Family Relations Act, which would make same-sex partnerships completely equal to heterosexual partnerships. In 2015, Zavod Open, Peace institute and Legebitra collaborated on an analysis of Slovenian legislature that showed that same-sex couples are discriminated against in more than 70 laws²⁵.
16. In spring 2015, amendment was approved by the Parliament, but later the referendum was held where the amendment was overthrown²⁶. Two days later, the Civil unions Act²⁷ was put to parliamentary procedure by an independent member of parliament and later adopted.
17. The Civil union Act²⁸ abolishes discrimination in almost 70 laws. In legislature, the difference is still present in access to joint adoption for same-sex partners (it is explicitly excluded) and access for single women to procedures of infertility treatment is strictly forbidden (only married women

¹⁴ The institution was established in 2016 based on Protection against discrimination Act.

¹⁵ <http://www.zagovornik.si/wp-content/uploads/2018/11/Poro%C4%8Dilo-2017-.pdf>

¹⁶ <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5944>

¹⁷ Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraph 5

¹⁸ Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraph 68

¹⁹ Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraph 44

²⁰ Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraph 115.92

²¹ Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraph 115.98

²² Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraph 46

²³ Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraph 115.93

²⁴ http://www.mddsz.gov.si/si/medijsko_sredisce/novica/7404/

²⁵ https://legebitra.si/wp-content/uploads/2016/01/Pravni-polozej-istospolnih-partnerstev-in-star%C5%A1evstva_feb_2015.pdf

²⁶ <https://www.rtvlo.si/slovenija/referendum/pobudnikom-referenduma-uspelo-sprememba-zakona-o-zakonski-zvezi-zavrjnena/381559>

²⁷ This law was based on Law on civil partnership from 2014.

²⁸ <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7434>

and men and those living in non-marital partnerships have access)²⁹. Additionally, the Civil Union Act states that partners in civil union or in non-formal civil union are not eligible to procedures of infertility treatment and procedures of biomedical-assisted procreation. Therefore, the ban to access fertility treatment goes towards same-sex couples and single women.

18. In cases where same-sex couples have children, the parent who did not give birth to them has to undergo second parent adoption, which is disproportionate when comparing to heterosexual couples, where presumption of paternity for married couples and acknowledgement of paternity in civil partnerships is respected. The Civil Unions Act states that civil union has same legal consequences as marriage and non-formal civil union has same consequences as extramarital union, unless stated differently in the law itself. And the law does not state differently in this case.

LGBTI-related policies

19. During the Cycle II of Slovenia, the delegation of Slovenia explained that the Slovenian Ministry of Health and the blood transfusion service were currently considering their existing practices, with a view to adapting it to both medical requirements for ensuring a high level of protection for recipients of blood and the principle of non-discrimination³⁰. Uruguay recommended to adopt policies to ensure equality of rights for all persons, without discrimination of gender, religion, race or sexual orientation, in line with international standards³¹, while Mexico recommended to continue with the campaign to eliminate all forms of discrimination, particularly from school age and through human rights education³².
20. According to the recent data, 21% of LGBTI people are not open about their sexual orientation, while 42% are mostly not open. 43% avoid certain places due to safety reasons, while 61% of same-sex couples avoid holding hands in public for fear of being assaulted, 56% believed that about expressions of hatred and aversion. 51% thought that politicians commonly use offensive language about LGBTI people, while 27% viewed assaults and harassment of LGBTI people as routine³³.
21. Blood transfusion in Slovenia still discriminates men who have sex with men (hereinafter: MSM), in largest proportions gay and bisexual men. Although, they claim, that the regulation is not aimed towards gay men, but based on the fact that MSM are a high risk group for HIV transmission³⁴, they stipulate that men who had at any time sexual relation with another man cannot be blood donors, therefore ignoring scientifically based window periods for HIV infections. On the other hand, high risk sexual behavior of heterosexual persons is not an exclusion criterion for blood donation. It is therefore our conclusion that these exclusion criteria are based on sexual orientation rather than risky sexual behaviour.
22. On local level, Municipality of Ljubljana is actively supporting LGBTI issues, through specifically mentioning LGBTI topics in their strategy for development of social welfare in Ljubljana³⁵, and

²⁹ Infertility Treatment and Procedures of Biomedical-assisted Procreation Act: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO2518>

³⁰ Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraph 13

³¹ Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraph 115.50

³² Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraph 115.57

³³ Life on the Margins: Survey Results of the Experiences of LGBTI People in Southeastern Europe, World Bank in cooperation with IPSOS, ERA and The Williams Institute, September 2018, p. 15, 17, 18, 29: <http://www.lgbt-era.org/sites/default/files/pdfdocs/0354%20Life%20on%20the%20Margins%20Survey%20results%20of%20the%20living%20experiences%20of%20lgbti%20people%20in%20south%20eastern%20europe-ilovepdf-compressed.pdf>

³⁴ The Blood Transfusion Centre of Slovenia explanation on exclusion of MSM from blood donation <http://www.ztm.si/pojasnilo/>

³⁵ Strategy for development of social security in Ljubljana <https://www.ljubljana.si/assets/Uploads/Strategija-razvoja-socialnega-varstva-v-MOL-za-obdobje-od-2013-do-2020.pdf>

their program LGBT friendly certificate³⁶. Apart from that, there is no LGBTI strategy or action plan on national or local level.

Human Rights Ombudsperson

23. In the previous mandate (2013–February 2019), the Ombudsperson³⁷ met with LGBTI organizations only on few occasions (January 2015, January 2016); she didn't show initiatives to tackle the systemic discrimination in Slovenian legalization. Later in her mandate, the Ombudsperson gave an interview, where she expressed sexist and discriminatory opinions that men are losing healthy masculinity and are too feminized, while women are becoming too manly, while all because of women rights movement. Legebitra and the coalition of LGBTI and women's rights CSOs addressed an open letter to the Ombudsperson and as a response, we were invited to a meeting where she was condoning her words. As a follow-up we managed to get another meeting to present the situation in the field of legal gender recognition.
24. In 2018 the Council for Human rights was established by the Ombudsperson. No LGBTI organizations/sector were appointed to the council³⁸.

Access to justice

Law enforcement

25. In recent years CSO Legebitra has established dialogue with the leadership of Slovenian Police force and is looking for ways to bring trainings about LGBTI to the police officers. There are no specialized LGBTI contact points in the country.

Protection from violence

26. Police does not collect data regarding violence that has been committed on the basis of sexual orientation, gender identity and expression and sex characteristics (hereinafter: SOGIESC). The police only records crimes initiated by hate, but it does not differentiate between different grounds on which the hatred is based. The real number of committed violence and harassment based on SOGIESC is unknown, since most of it stays unreported even to CSOs.
27. According to the recent data, 60% of LGBTI people in Slovenia had personally been harassed in the past five years, 78% stated the most serious incident of harassment occurred in person, with 30% not reporting the most serious case of harassment to the police thinking they would not do anything and 23% thinking they could not do anything. 22% have been physically/sexually assaulted or threatened with violence at home or elsewhere, where physical assault was present in 31% of the cases. The percentage of not reporting the case is even higher than with harassment³⁹.

³⁶ LGBT Friendly: <https://www.ljubljana.si/sl/moja-ljubljana/lgbt/certifikat-lgbt-prijazno/>

³⁷ The Human Rights Ombudsman: <http://www.varuh-rs.si/>

³⁸ <http://www.varuh-rs.si/o-instituciji/podrocja-dela-varuha/svet-varuha-za-clovekove-pravice/>

³⁹ Life on the Margins: Survey Results of the Experiences of LGBTI People in Southeastern Europe, World Bank in cooperation with IPSOS, ERA and The Williams Institute, September 2018, p. 57, 59, 63, 69, 74: <http://www.lgbti-era.org/sites/default/files/pdfdocs/0354%20Life%20on%20the%20Margins%20Survey%20results%20of%20the%20living%20experiences%20of%20lgbti%20people%20in%20south%20eastern%20europe-ilovepdf-compressed.pdf>

Hate Crime

28. There is no specific hate crime legislation in Slovenia. The Criminal Code only prohibits public incitement to hatred in article 297⁴⁰, which has been rarely used at the courts⁴¹. In the recent meeting with Legebitra, police officials stated they know that violence against LGBTI people happens, it is just not reported in the system and statistic.

Hate speech

29. During the Cycle II of Slovenia, Pakistan recommended to take the necessary steps for the criminalization of all acts of intolerance and hate speech⁴².
30. The term hate speech is not included in Slovenian legislature. Same as with hate crime, the Criminal Code only prohibits public incitement to hatred in article 297.

Access to Education

31. Compulsory, free and universal education is provided for ages 6 to 14 in Slovenia. An additional 4 years of free secondary education are available and not compulsory. The Basic School Act defines general basic education objectives, which include to develop respect for human rights, tolerance and acceptance of diversity⁴³.

School Curriculum

32. The Government of Slovenia sets key objectives, but the actual content of the curriculum and school management is up to the schools. Although teaching diversity is mandatory, this is not implemented very well. Sex education is not mandatory and depends on individual teachers⁴⁴. A review of sexual education in all Slovenian schools in 2015 showed that sex education depends on the skills and attitudes on individual teachers and lack any attention to emotions or sexual rights⁴⁵.
33. During the Cycle II of Slovenia, on discrimination against the children of same-sex couples in schools, based on their family's sexual orientation, the delegation of Slovenia highlighted a book "My name is Damjan" on lesbian, gay, bisexual, transgender and intersex (LGBTI) persons that all secondary school students were receiving during the current school year⁴⁶. Still, LGBT CSO are meeting with resistance when trying to organize extracurricular activities in schools.

Violence, Bullying and Discrimination

34. Slovenia has no national anti-bullying strategy⁴⁷. The attitudes towards LGBTI were relatively positive and a small majority of teachers is for more attention to sexual diversity in schools. But

⁴⁰ Kazenski zakonik: <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina?urlurid=20082296>

⁴¹ Attack by neo-nazi group on LGBT Café Open in a week leading to the ninth Pride Parade in Ljubljana in 2009 was the first one to be successfully processed on the basis of article 297 of the Penal Code. However, due to a procedural error (police kept the DNA of the accused, on the basis of which the attackers were found, beyond the legally allowed time period) the court decision was later annulled and the three men were set free.

⁴² Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraph 115.46

⁴³ <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO448>

⁴⁴ GALE European Report 2017 on the Implementation of the Right to Education for Students who are Disadvantaged because of their Expression of Sexual Preference or Gendered Identity, p. 300: <https://www.gale.info/doc/galeproducts/GALE-European-report-2017.pdf>

⁴⁵ GALE European Report 2017 on the Implementation of the Right to Education for Students who are Disadvantaged because of their Expression of Sexual Preference or Gendered Identity, p. 300: <https://www.gale.info/doc/galeproducts/GALE-European-report-2017.pdf>

⁴⁶ Report of the Working Group on the Universal Periodic Review, A/HRC/28/15, paragraph 13

⁴⁷ GALE European Report 2017 on the Implementation of the Right to Education for Students who are Disadvantaged because of their Expression of Sexual Preference or Gendered Identity, p. 300: <https://www.gale.info/doc/galeproducts/GALE-European-report-2017.pdf>

negative media attention for two failed referenda about marriage equality may have turned public attitudes to be more negative and fellow students to be more discriminatory⁴⁸.

35. The EU LGBT Survey says that 13% of the respondents feel discriminated by education personnel and 94% think that measures in school would make them more comfortable. For trans people this last number is 59%⁴⁹.
36. According to the recent data, 55% of LGBTI people hear or see negative comments or conduct against your schoolmate/peer because the person was perceived to be an LGBTI persons, 28% hear or see negative comments or conduct because a teacher was perceived to be an LGBTI persons, 26% experience negative comments or conduct at school because of their sexual orientation and/or gender identity and/or being intersex, while 14% openly talk at school about your sexual orientation and/or gender identity and/or being intersex⁵⁰.
37. Two researches explicitly stated that school environment as dangerous place for LGBTI youth.⁵¹⁵²

Position of Trans Individuals

38. Being a trans persons in Slovenia is still challenging due to *traditional* value systems, discrimination and social exclusion. Extensive lack of legal and social authentication and legitimisation, structural and societal silencing, intentional exclusion and invisibility of trans persons and topics are some of the biggest challenges⁵³. Slovenia as a former post-Yugoslav country still beholds a strong Balkan mentality, which forefronts nuclear families and *traditional* value systems as the only appropriate natural order. The rise of the right wing and immense strength of the catholic church within a country where the largest population (and voting body) and old persons creates a very hostile environment for all minorities, included trans persons. Most trans persons aren't even aware of their human rights being constantly violated, as they believe such treatment is simply what one deserves for being trans. There is a dire lack of education/information of human rights of trans persons among the community, as there is a large lack of inner justification/validation of any identities, which do not enter medical transition, leading to transphobia taking place also within the trans community itself, let alone in general society. Trans persons face a multitude of interconnected pressing issues, among which the most crucial issues are: extensive lack of legal and social authentication and legitimization, structural and societal silencing, intentional exclusion and invisibility of trans persons and topics, ignorance from all relevant stakeholders in regards to working on bettering trans persons' human rights,
39. The Register of Deaths, Births and Marriages Act⁵⁴ enables persons to have their gender legally recognised (changing their gender marker) and entered in the register. The law provides no guidance as to the criteria to be taken into consideration by the "competent health care provider

⁴⁸ GALE European Report 2017 on the Implementation of the Right to Education for Students who are Disadvantaged because of their Expression of Sexual Preference or Gendered Identity, p. 300: <https://www.gale.info/doc/galeproducts/GALE-European-report-2017.pdf>

⁴⁹ GALE European Report 2017 on the Implementation of the Right to Education for Students who are Disadvantaged because of their Expression of Sexual Preference or Gendered Identity, p. 303: <https://www.gale.info/doc/galeproducts/GALE-European-report-2017.pdf>

⁵⁰ Life on the Margins: Survey Results of the Experiences of LGBTI People in Southeastern Europe, World Bank in cooperation with IPSOS, ERA and The Williams Institute, September 2018, p. 46: <http://www.lgbti-era.org/sites/default/files/pdfdocs/0354%20Life%20on%20the%20Margins%20Survey%20results%20of%20the%20living%20experiences%20of%20lgbti%20people%20in%20south%20eastern%20europe-ilovepdf-compressed.pdf>

⁵¹ https://legebitra.si/wp-content/uploads/2016/01/RAZISKOVALNO_POROCILO_socioloska_raziskava.pdf

⁵² Homophobia in our school: https://legebitra.si/wp-content/uploads/2016/11/Homofobija-na-na%C5%A1i-%C5%A1oli_slo_final.pdf

⁵³ ILGA Europe Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Slovenia covering the period of January to December 2018: <https://www.ilga-europe.org/sites/default/files/slovenia.pdf>

⁵⁴ <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV5572>

or medical doctor” in determining whether a person has “changed their gender”, nor does it provide guidance as to which health care provider or medical doctor is competent to issue a certified statement clearly stating that a person has changed their gender. In the past 4 years, the majority of persons seeking legal gender recognition obtained the mentioned certified statement from a psychiatrist that diagnosed them with gender dysphoria F64⁵⁵. The law does not explicitly require a person seeking legal gender recognition to undergo any compulsory sterilisation procedures. However, the majority of persons obtained a certified statement from their psychiatrist after starting hormone treatment and proving to the psychiatrist that they have been living in their actual gender for a period up to a year or more⁵⁶. Regulation of Execution of the Register of Deaths, Births and Marriages Act⁵⁷ defines legal gender recognition as a relatively quick administrative procedure as the application for legal gender recognition is submitted to one of the administration units in Slovenia. After the administration unit issues a new birth certificate reflecting one’s own gender (without reference to the previous gender), the person can apply for new documents⁵⁸. This is accessible only to persons aged 18 or more and with full legal capacity. There are no legal provisions for a third/other gender options⁵⁹.

40. The majority of persons seeking legal gender recognition also apply for name change under the Personal Name Act. This procedure is separate from the procedure for obtaining a new gender marker (described above) and does not require any medical certificate. A person can submit both applications at the same time to the same registry officer. Both applications are then processed simultaneously. Personal names are usually gendered in Slovenia, however there are no provisions requiring that a personal name has to match the gender marker. Access to name change is barred for persons who have been convicted by final judgment for a criminal offence prosecuted ex officio until the punishment is executed or until there are no legal consequences in effect. There are no such limitations for the changing one’s gender marker⁶⁰.
41. Trans persons who are insured can access all health services including trans-specific health care services for free. If a person is not insured, then they must pay for all health services or access these at one of the three clinics for persons without medical insurance. These clinics do not offer trans-specific health services. A larger issue in Slovenia is the quality of health services, especially trans-specific services. As Slovenia is a small country, there is only one interdisciplinary team for medical gender confirmation. Another issue is the fact that one of two psychiatrists in Slovenia is a gate keeper when it comes to accessing hormones, surgeries or any other trans-specific medical procedures. CSOs TransAkcija and Legebitra received reports from transgender persons that the

⁵⁵ Gender Identity Disorder as defined in the International Statistical Classification of Diseases and Related Health Problems, Tenth Revision, Australian Modification

⁵⁶ Written Contribution to the Report on Legal Gender Recognition of UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity, ERA and 15 other CSOs, June 2018, p. 21: <http://www.lgbti-era.org/sites/default/files/pdfdocs/Report%20on%20Legal%20Gender%20Recognition%20in%20the%20Western%20Balkans%20and%20Turkey.pdf>

⁵⁷ Regulation of Execution of the Register of Deaths, Births and Marriages Act (Rules on the implementation of the Civil Register Act): <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV5572>

⁵⁸ E.g. identity card, passport, health insurance card, driver’s license etc.

⁵⁹ Written Contribution to the Report on Legal Gender Recognition of UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity, ERA and 15 other CSOs, June 2018, p. 21: <http://www.lgbti-era.org/sites/default/files/pdfdocs/Report%20on%20Legal%20Gender%20Recognition%20in%20the%20Western%20Balkans%20and%20Turkey.pdf>

⁶⁰ Written Contribution to the Report on Legal Gender Recognition of UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity, ERA and 15 other CSOs, June 2018, p. 21: <http://www.lgbti-era.org/sites/default/files/pdfdocs/Report%20on%20Legal%20Gender%20Recognition%20in%20the%20Western%20Balkans%20and%20Turkey.pdf>

approach to trans persons by the psychiatrists and clinical psychologists is frequently demeaning, intrusive, offensive and/or based on stereotypes. People are included in preventive healthcare programmes and screening tests based on their personal identification number (EMŠO), which is gendered.⁶¹⁶² Thus after a person has changed their gender marker and obtained a new EMŠO number, they don't get direct access to these programs, rather they need to make an effort and arrange it by themselves. Persons are also not informed by this anywhere except by CSOs.

42. In November 2018, TransAkcija submitted a formal request to the Ministry of Health signed by 275 individuals requesting the formation of a protocol for trans affirming health care. Trans affirming health care is still not regulated in the national health care system. There is no protocol for trans affirming health care and no dialogue with the Ministry of Health⁶³.
43. The state's violation of human rights in the scope of legal gender recognition is something that has a strong deciding factor for young trans persons not deciding to enter or postponing entering educational process, as they simply do not want to be in school and not be able to live by using their chosen name and having documents matching their gender identity. According to TransAkcija, many trans individuals are not attending or even enrolling into school/university and rather staying at home and not gaining any knowledge, as this is safer for them and better for their mental health, even if they are aware of important consequences that come with not accessing education. Trans people have access to state funded education, however these environments are not safe for them. In TransAkcija's 2015 survey of Needs of transgender persons in Slovenia, 42% of respondents reported experiencing discrimination based on their gender at school/university. There are no legal provisions regulating the process of issuing educational certificates reflecting one's own gender and educational institutions are reluctant to change gender on educational certificates. This is very concerning, as Slovenian language is gender specific and gender is reflected in the title(s) acquired during education and presents a major obstacle for trans persons to either continue with their education⁶⁴ or enter the labour market⁶⁵.

Position of Intersex Individuals

44. There is no specific legal coverage or legal protection for intersex persons within Slovene legislation, however it could be possible that sex characteristics would be considered a means of protection under the Law of protection against discrimination (2016)⁶⁶. There are also no intersex activists, however there is one intersex person that has given a few interviews for the media. He has stopped doing so, as he was very disappointed with no follow-ups of action. TransAkcija met a few (3 – 5) intersex persons during personal counselling, yet they all came to see them for matters related to their gender identity. Through discussions, it was revealed that they are

⁶¹ For example, for cervical cancer or testicular cancer.

⁶² Written Contribution to the Report on Legal Gender Recognition of UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity, ERA and 15 other CSOs, June 2018, p. 22: <http://www.lgbti-era.org/sites/default/files/pdfdocs/Report%20on%20Legal%20Gender%20Recognition%20in%20the%20Western%20Balkans%20and%20Turkey.pdf>

⁶³ ILGA Europe Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Slovenia covering the period of January to December 2018: <https://www.ilga-europe.org/sites/default/files/slovenia.pdf>

⁶⁴ E.g. enrol to university with a high school certificate that does not reflect their actual gender.

⁶⁵ Written Contribution to the Report on Legal Gender Recognition of UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity, ERA and 15 other CSOs, June 2018, p. 22: <http://www.lgbti-era.org/sites/default/files/pdfdocs/Report%20on%20Legal%20Gender%20Recognition%20in%20the%20Western%20Balkans%20and%20Turkey.pdf>

⁶⁶ Under "and other personal circumstances" part of the provision of the law.

intersex. Most of them have never heard of the term intersex before, but all had in common experiences of not having access to their medical records, involuntary surgeries, not understanding the course of their body's development and total silencing from their families. In February 2019, TransAkcija hosted a 2-day event of intersex awareness with an intersex activist from Croatia as a guest. One event was a community workshop and the other a workshop for CSO representatives from which now a small coalition has been formed to start developing the basis for intersex activism in Slovenia⁶⁷.

Prevention of HIV and AIDS

45. HIV/Aids prevention activities have been initiated by ŠKUC Magnus since 1984 on their own initiative, while Legebitra has developed a good practice of community based testing, advocacy, support and prevention activities⁶⁸.
46. According to research on MSM and drugs, only 44% of MSM reveal their sexual orientation to personal doctors, and only 40% feel they can talk about STD's freely to their doctor⁶⁹. People living with HIV have reservations to report cases of discrimination against them, due to fear of exposure⁷⁰.
47. In 2018, Slovenia took important steps to prevent stigma and discrimination against people living with HIV. First, the Health Insurance Institute of Slovenia limited access to information on prescribed medication for HIV to general practitioners only. In the past, healthcare workers were able to access information on their patients' use of antiretroviral treatment. The decision was made following cooperation between Legebitra, the Department of Infectious Diseases and Febrile Illnesses of the Ljubljana University Medical Centre, and after consultation with the Ministry of Health, national Medical Ethics Commission and other relevant stakeholders⁷¹. On 10 July 2018, the second instance court in Maribor ruled in a binding judgment that the fact that in 2016, a person living with HIV was refused access to healthcare by a healthcare worker due to their HIV status, was unlawful and discriminatory. The person filed a lawsuit against the healthcare worker in 2017. This was the first court case of its kind in Slovenia⁷².
48. There is existing National Strategy on prevention and managing of HIV⁷³ and Commission on AIDS meets regularly. LGBTI CSOs are part of this commission.
49. In 2019, University Medical Centre Ljubljana issued recommendations on HIV and healthcare workers on employment of HIV positive healthcare workers and about non-discriminatory treatment of HIV positive patients⁷⁴.
50. There are concerns about immigrants who cross the border illegally and do not request asylum. Since they do not have compulsory health insurance they cannot access HIV treatment.

⁶⁷ TransAkcija's report on the 2-day intersex awareness workshop: <http://transakcija.si/2019/02/28/kaj-nam-je-prinesel-erinov-obisk/>

⁶⁸ Compendium of good practices in the health sector response to HIV in the WHO European Region: <http://www.euro.who.int/en/publications/abstracts/compendium-of-good-practices-in-the-health-sector-response-to-hiv-in-the-who-european-region>

⁶⁹ According to the Research on Chemsex in Slovenia by ŠKUC Magnus, Legebitra and Drogart.

⁷⁰ Source: ŠKUC Magnus HIV self-help group.

⁷¹ ILGA Europe Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Slovenia covering the period of January to December 2018: <https://www.ilga-europe.org/sites/default/files/slovenia.pdf>

⁷² ILGA Europe Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Slovenia covering the period of January to December 2018: <https://www.ilga-europe.org/sites/default/files/slovenia.pdf>

⁷³ National strategy on prevention and managing HIV 2017 – 2025:

http://www.mz.gov.si/fileadmin/mz.gov.si/pageuploads/javno_zdravje_2015/HIV_IN_HEPATITIS/HIV_nac.strategija_2017-2025_web.pdf

⁷⁴ Recommendations on HIV and healthcare workers. https://www.kclj.si/dokumenti/HIV_IN_ZDRAVSTVENI_DELAVCI_2019-fin-B.pdf

51. In 2018 PrEP study has been initiated for possible implementation of granting MSM access to newest prevention methods.

Freedom of Association and Peaceful Assembly

52. Most public events of LGBT community are held in the capital of Ljubljana, where most LGBT organisations are based. These include cultural and activist activities, as well as places of association like clubs and bars. Other cities in Slovenia have no places operated by and for the LGBTI community. Some youth centres in rural environment have recently adopted some LGBT programmes⁷⁵.
53. In 2014, Legebitra organised the first national expert meeting on transgender issues – TransMisija, which is now organised every year in November by TransAkcija. Since its' establishment in 2015, Legebitra has been cooperating with TransAkcija especially on the issue of legal gender recognition⁷⁶.

Cooperation with LGBT CSOs

54. Most of LGBT CSOs are funded through projects and programs. The state does not provide core funding or operational funding for LGBT CSOs. CSOs like TransAkcija have no financial support from the State, as the State steers as far away from transgender topics as possible. It also functions within the mentality that all LGBT+ organizations are doing the same work and if they support one, that is enough.
55. In most cases, CSOs are part of specific interdisciplinary commissions (Human rights, Istanbul convention, Council for NGOs etc.).
56. In cases of decision making and consulting CSOs and other stakeholders about legislative changes, based on monitoring⁷⁷ by Centre for Non-governmental organisations in Slovenia, Government has breached the Resolution on Legislative Regulation⁷⁸ in 54%.
57. TransAkcija has diverse experience with CSOs, however even the most positive of dialogues hasn't been followed up by any actions or changes, hence their understanding of CSOs is that they mostly speak with them to tick a box and not from genuine will to engage in legislative change.

List of Recommendations

- 58.1 Within the next reporting cycle, ensure that the Inter-Ministerial Working Group for monitoring the implementation of Istanbul Convention works in full capacity and provides the data on implementation in a timely and effective manner;**
- 58.2 Within the next reporting cycle, ensure that all awareness-raising activities related to the Istanbul convention include vulnerable groups of women, mentioned in explanatory memorandum**

⁷⁵ As stated by members of LGBTI communities in Slovenia.

⁷⁶ Written Contribution to the Report on Legal Gender Recognition of UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity, ERA and 15 other CSOs, June 2018, p. 23: <http://www.lgbti-era.org/sites/default/files/pdfdocs/Report%20on%20Legal%20Gender%20Recognition%20in%20the%20Western%20Balkans%20and%20Turkey.pdf>

⁷⁷ Monitoring of Breches of Resolution on Legislative Regulation: <https://www.cnvos.si/stevec-krsitev/predpisi/ministrstvo-za-delo-dru%C5%BEino-socialne-zadeve-in-enake-mo%C5%BEnosti/>

⁷⁸ Resolution on Legislative Regulation: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5516>

of the Convention, especially lesbians, bisexual women and transgender persons, as well as all LGBTI topics in order to achieve equality in Slovenia;

- 58.3 Within one year, provide all necessary financial and organizational requirements for adequate functioning of the Advocate of Principle of Equality;
- 58.4 Within one year, amend the current legislation to allow access to joint adoption for same-sex partners, as well as fertility treatment for same-sex couples and single women and introduce presumption of paternity for children living in same-sex partnerships, with no additional and discriminatory requirements in comparison to heterosexual couples;
- 58.5 Within one year, remove any provisions related to blood transfusion that discriminate men who have sex with men as blood donors;
- 58.6 Within the next reporting cycle, introduce strategies on tackling violence and discrimination against LGBTI persons, including within educational and employment system, accompanied by relevant action plans of implementation on national level and within local governments in the country and develop programs for LGBT youth safe houses;
- 58.7 Within the next reporting cycle, provide adequate space for cooperation between the Ombudsperson and LGBTI CSOs and ensure adequate representation of LGBTI CSOs within Council for Human rights;
- 58.8 Within the next reporting cycle and in cooperation with LGBTI civil society organizations, introduce trainings about LGBTI issues to police representatives, establish specialized LGBTI contact points within every police department in the country and introduce data collection regarding violence committed on the basis of SOGIESC;
- 58.9 Within one year, amend the Criminal Code of Slovenia to introduce hate crime as an aggravating circumstance to introduce protection from based, *inter alia*, on SOGIESC;
- 58.10 Within one year, amend antidiscrimination and criminal legislation in order to ensure protection from hate speech based, *inter alia*, on SOGIESC;
- 58.11 Within one year, adopt a Rulebook on miscellaneous criteria for recognizing the form of discrimination by employees, children, pupils or third parties in educational system that will include SOGIESC as protective grounds and introduce safe points (contacts) for LGBTI youth in schools;
- 58.12 Within the next reporting cycle, provide support to LGBTI civil society in organizing public campaigns and events to increase the visibility of intersex persons;
- 58.13 Within one year, ensure provision of adequate medical, psychological and social support to intersex persons and their families and establish adequate protocols and annual data gathering on intersex related diagnosis and medical interventions in state medical centers and private practices;
- 58.14 Within one year, amend antidiscrimination legislation to include sex characteristics as a personal ground of protection from discrimination;
- 58.15 Within the next reporting cycle, provide support to trans civil society organizations in organizing public campaigns and events to increase the visibility of trans persons and combat prejudices, stereotypes, hate speech, transphobia and discrimination; as well as events and services for trans community in order to increase, *inter alia*, the awareness on how to combat their human rights violations and sustain their well-being;
- 58.16 Within one year and in cooperation with trans civil society organizations, introduce precise protocols and guidance on legal gender recognition and trans affirming health care, based on person's self-determination and in line with international standards and best practices;

- 58.17** Within the next reporting cycle and in cooperation with trans civil society organizations, provide trainings on the position of trans individuals to medical staff, improve trans-specific health services and eliminate discriminatory and transphobic treatment by medical staff, and provide trainings on the position of trans individuals to staff in educational facilities, including public and private schools and universities, in order to eliminate gender-based discrimination and transphobia and secure safe space for trans individuals within the educational system;
- 58.18** Within one year, introduce bylaws that will provide mechanisms for protection from transphobia and gender-based discrimination made by civil servants, including, *inter alia*, educational staff, medical staff and state administration staff; and secure changing gender in individual's educational certificates based on their self-determination and in line with international standards and best practices;
- 58.19** Within the next reporting cycle and in cooperation with CSOs working closely on HIV/AIDS, continue combating unlawful stigma, exclusion and discrimination based on HIV/AIDS status by introducing public awareness-raising campaigns, trainings for medical staff, ensuring effective implementation of National Strategy on prevention and managing of HIV, holding regular meetings of Commission on AIDS and secure availability of PrEP as prevention method against HIV to all MSM in need;
- 58.20** Within the next reporting cycle and in cooperation with LGBTI CSOs, introduce safe spaces and public events for LGBTI communities living outside the capital of Ljubljana;
- 58.21** Within the next reporting cycle, ensure sustainable core and operational funding for LGBTI CSOs and secure adequate representation of LGBTI CSOs in decision-making and consultative processes related to LGBTI legal and policy frameworks;
- 58.22** Within the next reporting cycle, provide trainings of medical staff concerning reasons for drug use among LGBT population and develop adequate rehabilitation programmes;

ANNEX

List of contributors

1. Linn Julian Koletnik, TransAkcija
2. Lana Gobec, Legebitra
3. Eva Gračanin, Legebitra
4. Jernej Škof, ŠKUC
5. Tadeja Pirih, ŠKUC
6. Vuk Raičević, ERA – LGBTI Equal Rights Association for Western Balkans and Turkey