

NGO report to
HUMAN RIGHTS COMMITTEE (HRCtee)
116th SESSIONS (7 – 31 MARCH 2016)
FOR SLOVENIA

VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE
(arts. 2, 3, 6, 7 and 27)

ISTANBUL CONVENTION

Slovenia signed the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention) in 2011. Afterwards the emphasis was only on the law analysis and the objectives were that a lot of Acts needed to be changed so that the Convention can be ratified. In December 2014 National Council adopted the Act Ratifying the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence but also took all possible reservations.

Reservations that Republic of Slovenia took, for five years with the possibility of prolongation:

1. Article 30, paragraph 2: Adequate State compensation shall be awarded to those who have sustained serious bodily injury or impairment of health, to the extent that the damage is not covered by other sources such as the perpetrator, insurance or State-funded health and social provisions. This does not preclude Parties from claiming regress for compensation awarded from the perpetrator, as long as due regard is paid to the victim's safety.

Slovenia took the reservation because this is according to the Crime Victim Compensation Act entitled only to the applicants who are residents of Slovenia or other EU Member States and under the substantive conditions it says also that "if there is an reasonable suspicion, that the applicant was the victim of intentional violent offense" and also that the offense was conducted on the territory of Republic of Slovenia. Crime Victim Compensation Act is discriminatory because it contains a formal condition of the citizenship of the Republic of Slovenia or other EU Member States for obtaining compensation under this Act.

2. Article 44, paragraphs 1.e: Jurisdiction also by a person who has her or his habitual residence in their territory.

Slovene legislation do not use the term of »habitual residence«.

3. Article 44, paragraphs 3: For the prosecution of the offences established in accordance with Articles 36, 37, 38 and 39 of this Convention, Parties shall take the necessary legislative or other measures to ensure that their jurisdiction is not subordinated to the condition that the acts are criminalized in the territory where they were committed.
According to the Penal Code (KZ-1, Article 14, paragraphs 3.): the perpetrator shall be prosecuted only insofar as his conduct constitutes a criminal offence in the country where it was committed. But in some cases the offender can be prosecuted with the permission of the Minister for Justice.

4. Article 44, paragraphs 4: For the prosecution of the offences established in accordance with Articles 36, 37, 38 and 39 of this Convention, Parties shall take the necessary legislative or other measures to ensure that their jurisdiction as regard to points d and e of paragraph 1 is not subordinated to the condition that the prosecution can only be initiated following the reporting by the victim of the offence or the laying of information by the State of the place where the offence was committed.
Some criminal offences, as for example rape and sexual violence are in Slovenia prosecuted on a proposal if they are conducted in marriage, interpersonal relationship or registered same sex community.

5. Article 55, paragraph 1 in respect of Article 35 regarding minor offences: Parties shall ensure that investigations into or prosecution of offences established in accordance with Articles 35, 36, 37, 38 and 39 of this Convention shall not be wholly dependant upon a report or complaint filed by a victim if the offence was committed in whole or in part on its territory, and that the proceedings may continue even if the victim withdraws her or his statement or complaint.
Parties shall take the necessary legislative or other measures to ensure, in accordance with the conditions provided for by their internal law, the possibility for governmental and non-governmental organisations and domestic violence counsellors to assist and/or support victims, at their request, during investigations and judicial proceedings concerning the offences established in accordance with this Convention.
Slovenia's reservation here is regarding the milder forms of physical violence as these are prosecuted on proposal.

6. Article 58 in respect of Articles 37, 38 and 39: Parties shall take the necessary legislative and other measures to ensure that the statute of limitation for initiating any legal proceedings with regard to the offences established in accordance with Articles 36, 37, 38 and 39 of this Convention, shall continue for a period of time that is sufficient and commensurate with the gravity of the offence in question, to allow for the efficient initiation of proceedings after the victim has reached the age of majority.
In Slovenia only some criminal offences have exceptions regarding the limitation. These are: sexual integrity, criminal offences against marriage, family and youth, which are conducted against a minor, the limitation starts with the age of 18. This is showing that also other criminal offences in the Convention can have the same statute of limitation.

7. Article 59: Parties shall take the necessary legislative or other measures to ensure that victims whose residence status depends on that of the spouse or partner as recognised by internal law, in the event of the dissolution of the marriage or the relationship, are granted in the event of particularly difficult circumstances, upon application, an autonomous residence permit irrespective of the duration of the marriage or the relationship. The conditions relating to the granting and duration of the autonomous residence permit are established by internal law.

Parties shall take the necessary legislative or other measures to ensure that victims may obtain the suspension of expulsion proceedings initiated in relation to a residence status dependent on that of the spouse or partner as recognised by internal law to enable them to apply for an autonomous residence permit.

Parties shall issue a renewable residence permit to victims in one of the two following situations, or in both:

a where the competent authority considers that their stay is necessary owing to their personal situation;

b where the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.

Parties shall take the necessary legislative or other measures to ensure that victims of forced marriage brought into another country for the purpose of the marriage and who, as a result, have lost their residence status in the country where they habitually reside, may regain this status.

According to the Aliens Act this is not possible. But this article is very important to us, as in practice we see how necessary this is for foreign women who want to escape violence.

The Convention encourages the adoption of the necessary legislative measures. From this perspective, reservations in most articles have no importance. As seen from the Proposal of the Act Ratifying the Council of Europe Convention, the government adopted reservations anywhere where the current Slovenian legislation is not harmonized with the text in the Convention. This unnecessarily prevents debates on amendments to the legislation or on the adoption of appropriate measures.

Because of the Convention, it is expected that in the area of professional and specialized support to women who experience violence and their children will come to further improvements, but only if the state will carry out its consistent implementation.

We urge the committee to recommend to the state to withdraw all the reservations and accept the Istanbul Convention completely.

NEED FOR A COMPREHENSIVE AND COORDINATED SYSTEM OF SUPPORT TO WOMEN - VICTIMS OF DOMESTIC VIOLENCE

According to the authors of the national research (Leskošek et al., 2008) since the age of 15, 23 % of women have experienced physical violence. Of all the perpetrators of physical violence, 92 % were men. The interviewees who experienced physical violence are in general less healthy than women from general population, 44.6 % of victims of violence have marked their health as poor and very poor. The prevalence of psychological violence in the research is very high. In the last 12 months, half of all the respondents (49.9 %) have experienced psychological violence, with four-fifths of perpetrators of psychological violence being male. According to the research the violence can begin at any time in life, from early childhood through to old age. Some women experience violence their whole life. 5.5 % of women experienced violence also during their pregnancy, 4.5 % of women reported that the perpetrator was also violent to the children, most often psychologically, then physically and sexually. The findings are reflecting experiences and views of better-educated women, who are employed in safe employments and not in threatened employments, or they are retired. They have their own income, which is in most cases at their disposal. Most often they live in a joint household with their partners (64.1 %), who are in the most cases (51.9 %) their spouse and they have common children. In majority they are Slovene citizens. Half of them are religious; mostly they belong to catholic religion. Most of them live in bigger cities or villages near the bigger cities. The accessibility and diversity of different supports is also better near bigger cities and in bigger cities.

Women in Slovenia still do not have the same access to different forms of support in all regions, there is no free of charge psychosocial support that will be available to all women victims of violence. In practice we observe a big need for this kind of support, the help from social workers to women that are in shelters is not enough, also no one is providing the adequate support to women who are not in shelters. If they want free of charge support they wait for a long time. Women need support to overcome the consequences of violence. There is also a big need for this kind of programmes for their children. In our shelters we are providing this kind of help only to children if we see that they really need it. We are covering it with donations; also the professionals are sometimes giving it on the volunteer basis.

We urge the Committee to recommend to the state:

- 1. The establishment of a network of free counselling assistance programs for victims of violence throughout the country, including the establishment of free specialized therapeutic programs providing assistance to victims of violence - the possibility of free psychosocial support, as long as the victims of violence need it.**
- 2. To ensure free legal aid for victims of violence in all (not only criminal) procedures connected with the elimination of the consequences of violence,**
- 3. To promote the development of programs for Roma women and programs for elderly women victims of violence.**

4. To support and promote programs for perpetrators of violence.

UNDOCUMENTED WOMEN AND WOMEN WHO'S STATUS IS DEPENDENT ON THE STATUS OF THEIR HUSBAND

In a particularly difficult and vulnerable situation are the foreign women, particularly those with a temporary residence permit and those without permission to stay in Slovenia, because they have no right to financial social aid.

Foreign women with temporary residence permit can extend their stay according to the Aliens Act only on the basis of Family reunification, Employment or Study.

Given the fact that the foreign women – victims of violence normally wish to divorce, the only options for an extension of staying are work or study, which is often not possible. Foreign women obtain work with difficulty, they often do not know the language, and they also come from distant countries (Thailand, Philippines, Ukraine, and Dominican Republic). Conditions for a residence without assuring a permanent source of income (before departure from home, it was the husband/partner) cannot be fulfilled - if they want to separate from the perpetrator of violence. Thus, foreign women find themselves in a vicious circle, quite financially/materially depending on a violent partner or husband. Unsolvable problem is the housing issue (as foreigners they can not apply to tenders for non-profit housing, and are not eligible for rent subsidies). It would be necessary to legally regulate the exception to the regulation of their status - as victims of violence foreign women should be eligible for an extension of status and also to receive financial social aid, as this would significantly facilitate the settlement of their situation. The big problem is also that they do not have health insurance (mandatory and additional), so major crisis occurs if one is seriously ill.

We are noticing an increase in women - victims of violence who are literally "brought" to Slovenia by perpetrators and shortly after begin misused in various ways, including for purposes of sexual exploitation and at the end they are driven out of their home, together with their children. Foreign women also find themselves in a difficult situation due to common children, for whom partner usually do not even care, but children are an excellent means for manipulating and preventing departure, and women are unable to return to their native land, where they still have a social network, which in Slovenia they usually do not have. If they have only a temporary residence permit, foreign women do not have means of subsistence, they are often unable to return to their own country because of the common children, even if willing to return (family matters in court take time to be settled), because fathers are Slovenian citizens and request custody or at least regular contacts with children.

During their stay in the shelter we offer foreign women material help (with free accommodation, food and basic necessities), but the question is what is going to happen to them after their stay in shelter expires.

We urge the Committee to recommend to the state to adopt amendments that will improve the status of foreign women who are victims of violence and ensure payment of compensation to all victims of violence.

FEMICIDES

Women often in the wish to calm down their former partner and to talk to him, meet him, sometimes this last conversation is also fatal. In particular these meetings partner use as a weapon against women, because afterwards they claim that women (former partner) are not afraid of them, because they met him. This happened to the woman who met her violent ex-partner and it was just the coincidence that the police stopped him due to speed control. In the car they found her body and it was just after the restraining order has expired.

We want to highlight concerns related to femicides in Slovenia. Between 2000 and 2013, more than 44 % of all murders and attempted murders of women in Slovenia were committed by their current or former intimate partners. In 2012 5 out of 12 murders or attempts of murder in 2013 3 out of 7 murders or attempts of murder of women were conducted by the former or actual partner of the women (Ministry of Interior). We know numbers are underestimated since we observe from the media that a lot of such cases happened.

Regarding the statistic on femicides: all criminal acts that ended with the suicide of the offender are not included, because according to the Ministry of Interior they cannot be statistically presented.

More has to be done for the security of women - victims of violence. Family Violence Prevention Act has a lot of shortcomings that have been observed in practice. Important disadvantage of the Act is that it does not impose penalties on offenders who fail to comply with the measures imposed in favour of the victim. It also does not allow the police to act in such cases (the prohibition of violent acts, and to left the housing and that woman can stay there – particularly Articles 19 and 21 of the Family Violence Prevention Act). Family Violence Prevention Act is currently changing and is time to include amendments that will increase the safety of victims and regulate the areas where we observed shortcomings.

We urge the committee to recommend to the state to adopt the measures that will increase the safety and security of victims of violence.

NO-INFORMING OF VICTIMS OF VIOLENCE ON RELEASE OR ESCAPE

In the current legal framework, the victim of a violent crime is not informed of the release or escape of the offender from detention or imprisonment. As the victims should be protected against the possibility to be secondary victims of a criminal offence, intimidation or retaliation, it is necessary to change the law with the aim of a better protection for victims.

We urge the Committee to recommend to the state to enable immediate change of legislation that will allow, at the request of a victim of violence and without undue delay,

notification of victims about the escape or release of persons prosecuted or sentenced for an offence concerning these victims, from detention or imprisonment.

DATA COLECTING

It is worrying that our institutions are still not systematically collecting data segregated by gender (data is not included in their annual reports and is not made public; data segregated by gender are from Police available on personal request). The key source of information is the Police. The visibility of violence against women is hidden in different definitions of offences, when managing or qualifying the acts of violence (murders of women by men are identified as murders of jealousy or passion, rape is often defined as sexual violence, violence against women is defined as domestic violence).

We urge the Committee to recommend to the state to provide a comprehensive and coordinated collection and processing of the data on violence against women on the basis of uniform classification of violence and to make the data public.

SISTEMATICAL EDUCATION AND PREVENTION

The trainings of professional workers are still insufficient. Especially we observe the lack of knowledge in the work of court experts. It can therefore happen that a woman has contact with policemen/policewomen, doctor, social worker who does not know anything about the issue of violence against women. The state does not financially support prevention programs, the emphasis and consequently co-funding is only on curative programs.

We suggest to the Committee to recommend to the state:

1. To provide a systematical education and to monitor that all employees that have contacts with victims of violence undergo first a basic and then an additional training every year.

2. To supervise the work of court experts all involved authorities that have contacts with victims of violence against women and domestic violence.

3. To start long term funding of preventive programs for all targets groups - children, general public and vulnerable groups that would be yearly and systematic.

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