



SLOVENIA – SOGI LEGISLATION COUNTRY REPORT
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Please note: This document was prepared by law students and highlights publicly-accessible information about legislation available at the time it was prepared. It is not exhaustive, nor is it updated on a regular basis. The information provided here is not a substitute for legal advice or legal assistance, and the International Human Rights program at the University of Toronto Faculty of Law cannot provide such advice or assistance.

Summary

Although not explicitly listed, sexual orientation is read in as one of the prohibited grounds of discrimination under the [Constitution](#).

Discrimination, including on grounds of sexual orientation, is criminalized ([Penal Code](#)). It is also listed under the [Act Implementing the Principle of Equal Treatment](#), which aims to improve protection against discrimination and harassment.

Discrimination on grounds of sexual orientation is prohibited in the workplace ([Employment Relationships Act](#)).

Both the [Constitution](#) and the [Penal Code](#) prohibit homophobic hate speech. Homophobic intention is considered an aggravating factor in cases of murder under the [Penal Code](#).

Same-sex sexual activity was decriminalised 1977 and the age of consent for same-sex and opposite-sex sexual activity equalized in 1977 ([Penal Code](#)).

Same-sex relationships are recognised under the [Civil Partnership Registration Act](#). The *Act* grants same-sex couples property rights, rights in case of illness, inheritance and obligations of mutual assistance. However, it does not deal with the relations between the partners or children.

On July 2, 2009, the Constitutional Court of Slovenia held that Article 22 violated the right to non-discrimination under Article 14 of the [Constitution](#) on the ground of sexual orientation in that it regulated inheritance for same-sex partners differently, and less favourably, than that for opposite-sex partners. The court ordered that the same rules for inheritance must be applied to both same-sex and opposite-sex couples (<http://www.icj.org/sogicasebook/blazic-and-kern-v-slovenia-constitutional-court-of-the-republic-of-slovenia-2-july-2009/>).

According to the [Marriage and Family Relations Act](#), joint adoption of children by a couple in a registered partnership is not possible. However, either of the partners in a same-sex union may adopt the biological child of the other.

A revised *Family Code* extending same-sex couples all rights of marriage was passed by the then-governing coalition, but was subsequently rejected in a referendum held on March 25, 2012 (<http://volitve.gov.si/Druzinski2012/>).

Legal Provisions

ANTI-DISCRIMINATION

[Constitution of the Republic of Slovenia \(1991\)](#): The *Ustavna komisija* (Commission for Constitutional Affairs) of the Parliament of the Republic of Slovenia has officially interpreted the term “personal circumstance” as a prohibited ground of discrimination to include the “same-sex orientation of an individual.”

Article 14: In Slovenia everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other conviction, material standing, birth, education, social status, disability or any other personal circumstance.

<http://www.us-rs.si/media/full.text.of.the.constitution.full.text.pdf>

[Constitution of Republic of Slovenia \(1991\)](#): Although not explicitly listed, homophobic hate speech is barred by the Constitution under “other discrimination”, when read in conjunction with the [Penal Code](#), set out below.

Article 63: Any incitement to national, racial, religious or other discrimination, and the inflaming of national, racial, religious or other hatred and intolerance are unconstitutional.

<http://www.us-rs.si/media/full.text.of.the.constitution.full.text.pdf>

[Act Implementing the Principle of Equal Treatment \(2004\)](#): The *Act* ensures equal treatment in several areas, including employment, education, and supply of goods and services, listing sexual orientation as a prohibited ground of discrimination. It bars direct and indirect discrimination, harassment and victimisation and sets out sanctions for violations.

Article 1(1): This act determines common bases and premises for ensuring the equal treatment of all persons in performing their duties and exercising their basic

freedoms in every field of social life, and especially in the fields of employment, labour relations, participation in trade unions and interest associations, education, social security, access to and supply of goods and services. This shall be available, irrespective of personal circumstances such as [...], sexual orientation, [...] or other personal circumstances.

<http://www.hsph.harvard.edu/population/womenrights/slovenia.women.04.pdf>

Employment Relationships Act (2003): “Sexual orientation” was added in 1998 as a prohibited ground of workplace discrimination:

Article 6(1): The employer may not treat unequally the job seekers (hereinafter referred to as the ‘applicant’) in gaining employment or the worker during the employment relationship and in relation to the termination of an employment contract on the basis of sex, [...], sexual orientation or other personal circumstances.

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

HATE CRIMES

Penal Code (2008): Discrimination, including on grounds of sexual orientation, is criminalized. Public incitement to hatred, violence or intolerance, including on the basis of sexual orientation, is prohibited under the *Penal Code*. In the case of murder, violation of equality is an aggravating factor, which, read in conjunction with Article 297(1), includes homophobic intent.

Article 131(1): Whoever due to differences in respect of [...], sexual orientation, [...] or any other circumstance deprives or restrains another person of any human right or liberty recognised by the international community or laid down by the Constitution or the statute, or grants another person a special privilege or advantage on the basis of such discrimination shall be punished by a fine or sentenced to imprisonment for not more than one year.

Article 297(1): Whoever publicly provokes or stirs up ethnic, racial, religious or other hatred, strife or intolerance, or provokes any other inequality on the basis of physical or mental deficiencies or sexual orientation, shall be punished by imprisonment of up to two years.

Article 116: Whoever murders another human being by taking his life, [...] 3) because of violation of equality [...] shall be sentenced to imprisonment for not less than fifteen years.

http://www.wipo.int/wipolex/en/text.jsp?file_id=180880

SEXUAL ACTIVITY AND AGE OF CONSENT

Penal Code (2008): The age of consent for same-sex and opposite-sex sexual activity were equalized in 1977.

Article 183(1): Whoever has sexual intercourse or performs any lewd act with a person of the same or opposite sex under the age of fifteen years where there is a marked discrepancy* between the maturity of the perpetrator and that of the victim shall be sentenced to imprisonment for not less than six months and not more than five years

http://www.wipo.int/wipolex/en/text.jsp?file_id=180880

PARTNERSHIP RECOGNITION AND BENEFITS

Civil Partnership Registration Act (2006): This legislation defines the procedure and conditions of the registration of same-sex civil partnership, granting same-sex couples rights to jointly own property, occupancy rights and tenancies, rights in case of illness, inheritance, and obligations of mutual assistance. It also sets out procedures and consequences of termination of a civil partnership.

Article 2: The registered same-sex civil partnership (hereinafter referred to as civil partnership) is a relationship between two women or two men, who have registered as civil partners of each other before the competent authority in the manner prescribed by this Act.

Article 8: By virtue of civil partnership registration civil partners have the right to subsistence and maintenance, the right to jointly owned property and regulation of property relations within civil partnership, the occupancy right, the right to inherit a part of jointly owned property from the deceased partner and the right to obtain information about the health condition of the sick partner and to visit him or her in the healthcare institutions.

Article 9: The property obtained by civil partners by work during civil partnership shall be their jointly owned property

Article 20: (1) Civil partners shall decide on the place of residence by agreement. (2) During civil partnership civil partners may only by agreement alienate, encumber or rent the flat, which is their jointly owned property, or establish easement or any other right on the flat, which may obstruct its use. (3) If only one of the civil partners is the tenant of a flat, he or she shall not terminate the landlord and tenant relationship without the written consent of the other civil partner.

Article 21(1): In case of illness of a civil partner the other civil partner has the right to be kept informed of his/her illness, the course of treatment and other particulars relating to the condition of the sick civil partner and is entitled to make decisions in respect of his/her treatment if he or she is unable to do so.

Article 22: (1) If one of the civil partners dies, the surviving civil partner shall have the right to inheritance of jointly owned property in the proportion specified by this Act. (2) If the decedent has children, the property referred to in the preceding paragraph shall be inherited equally by the surviving civil partner and the decedent's children. (3) When the decedent had no children, the surviving civil partner shall inherit the total share of jointly owned property.

Article 24: (1) During the civil partnership the civil partners shall be obliged to offer assistance to each other. (2) Mutual assistance that civil partners are obliged to provide to each other consists of reciprocal assistance in nursing and care in case of illness of one of the civil partners, material aid and other forms of support in the civil partnership.

Article 25: (1) Civil partnership terminates on the death of one of the civil partners, on declaration of one of the civil partners as dead or by virtue of a final decision on the termination of civil partnership.

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

Note: On July 2, 2009, the Constitutional Court of Slovenia held that Article 22 violated the right to non-discrimination under Article 14 of the [Constitution](#) on the ground of sexual orientation in that it regulated inheritance for same sex partners differently, and less favourably, than that for opposite sex partners. The court ordered that the same rules for inheritance must be applied to both same-sex and opposite-sex couples.

<http://www.icj.org/sogicasebook/blazic-and-kern-v-slovenia-constitutional-court-of-the-republic-of-slovenia-2-july-2009/>

ACCESS TO REPRODUCTIVE TECHNOLOGY, ADOPTION, AND PARENTING

Marriage and Family Relations Act (1977): Joint adoption of children by a registered partnership is not possible, although either of the partners in a same-sex union has the right to adopt the biological child of the other.

Article 3(1): Marriage is a legally regulated living community of a man and a woman.

Article 135: Nobody may be adopted by more than one person unless the adopters are a married couple.

[http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti_pdf/zakonodaja/law on marriage and family relations.pdf](http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti_pdf/zakonodaja/law_on_marriage_and_family_relations.pdf)

The Supreme Court decided in 2010 that it did not contravene public policy to give domestic effect to a foreign order of adoption by a same-sex couple.

<http://www.icj.org/sogicasebook/in-re-foreign-adoption-supreme-court-of-the-republic-of-slovenia-28-january-2010/>