

# ACTIVATE! Report

Research, monitoring and recording of  
cases of discrimination and rights  
violations against LGBT people in  
Slovenia in the period from November  
2007 to November 2008

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## **Contents:**

### **Introduction**

### **Activate!**

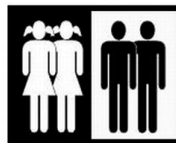
Roman Kuhar, PhD, Jasna Magić:  
**Experiences and Perceptions of  
Homophobic Violence and Discrimination  
(Research report)**

Jasna Magić:  
**Monitoring and Recording of Cases  
(Personal testimonials)**

Neža Kogovšek, MA:  
**Legal (In)Equality of Same-Sex Partners**

### **Recommendations:**

### **Bibliography:**



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# Introduction

In spite of the fact that Slovenia's national and international laws prohibit discrimination on the basis of any personal circumstance, to which sexual orientation also belongs, LGBT population is still encountering numerous forms of discrimination and violence. Practice shows that we cannot achieve equality only by changing the laws. However, the state's institutions, by adoption and correct interpretation of anti-discrimination policies and acts, can substantially contribute to punishment of violent and discriminatory behavior towards LGBTs, which in turn influences the feelings and attitudes of society towards this social minority.

LGBT individuals who face homophobic reactions should be able to recognize the specific situations in which their human rights are violated, and should be aware that, in such cases, the same rights should be available to them as they are to all other citizens of the Republic of Slovenia. As a result, the Activate! programme was carried out on two levels. On one level we researched, monitored and documented cases of discrimination and violence against LGBT population with the aim of raising awareness among LGBTs; we also strived to inform the participants about the rights they are entitled to, and to offer them an appropriate support system in the event of follow-up actions. On the other hand we would like to use the analysis of the programme results to inform the public and all the relevant decision-makers about the characteristics and consequences of homophobic attacks and violence in Slovenia and, consequently, influence social and legislative changes connected with issues of violence and discrimination against LGBTs in Slovenia. The initiative for the Activate! programme, which was operating in its pilot phase from 1 November 2007 to 31 October 2008, was brought on by the increased frequency of appearance of hate speech, harassment, intimidation and other forms of violence against the LGBT people.

The cases of homophobic acts, which were collected through a questionnaire and especially through personal testimonies, provide an important insight into discrimination and violence experienced by the LGBT people in Slovenia. However, we are aware that many similar cases occurred during this period which eluded our research and proper recording. Individuals who face discrimination and homophobic violence do not talk about it and even less often report it to the appropriate institutions, organisations or societies. As discussed below, this is due to different reasons, but mostly because LGBTs believe that reporting homophobic reactions will not bear results. An important factor in a number of reports made is probably also the fact that a report, be it to the police or any other institution, in most cases requires the victim of an attack to disclose his or her sexual orientation, as this is relevant

for correct classification and categorisation of the act, as well as for ascertaining the motives of the perpetrator.

The problem of not reporting homophobic acts has a decisive influence on the fact that violence and discrimination against LGBT population remain invisible; in the eyes of law enforcement and other public institutions as well as policy and law makers it does not seem to exist, which in turn also keeps it hidden from the public eye. Inadequate and inaccurate information about characteristics of homophobic acts also prevent more effective initiatives for raising awareness of the society about the appearance, frequency and consequences of such violence, which consequently creates an environment that does not only accept this kind of violence but even allows it. Unregulated legislative position of same-sex couples, relatively sluggish responses of decision-makers and persons responsible to repeated attacks on the Pride Parade participants – all this points towards social denial of violence against LGBT population on all social levels, and complete disregard of the issue at the political level, as well as in other formal systems. Last but not least, the lack of data on homophobic violence and discrimination presents an important obstacle in prosecuting the perpetrators and providing more effective measures and inclusive policies.

The findings and analysis of the data clearly show that these kinds of violations must be taken seriously. Besides showing disapproval we must also establish a long-term strategy and concrete plans for decreasing homophobic violence within all social and political institutions and on all levels of society.

In the Organisation Društvo informacijski center Legebitra we believe that by carrying out the programme, which we also intend to improve and implement in 2009 and 2010, and by providing information, we will and have contributed to the development of a more systematic approach to recognition, recording and taking measures in the instances of discrimination, violence and unequal treatment of LGBT population in Slovenia.

We wish to sincerely thank everyone who confided their experiences through the questionnaire, focus groups and/or personal testimonies.

Jasna Magić

# Activate

The basic objectives of the programme are:

- To inform LGBT population of the existing support mechanisms and protection of rights on the European as well as the national level;
- To monitor and document instances of discrimination and homophobic violence, and offer immediate support to their victims;
- To encourage LGBT population to report actual cases of discrimination and violence to appropriate institutions;
- To monitor and document cases of discrimination and violence against LGBT population and provide data to the relevant decision-makers on the national as well as the European levels;
- To inform and raise awareness of the broader public and policy-makers about the characteristics and consequences of homophobic acts and violence.

The information on discrimination and homophobic violence was gathered through:

- The ACTIVATE! questionnaire – On Discrimination and Violence on the Basis of Sexual Orientation or Sexual Expression
- Monitoring and documenting of actual instances of violence and discrimination
- Semi-structured interviews – personal testimonials
- Focus groups

Support and/or information for implementation of the programme was also provided by the following institutions and societies: Peace Institute, Association for Integration of Homosexuality DIH, Legal and Information Centre PIC, Ljubljana Student Organisation and internet forums (Mavrični forum and Queer forum). We also established contacts with the Police station Ljubljana-Center.

Report structure:

This report is divided into three main parts:

- The first part includes the statistical analysis of the information obtained through the online questionnaires and focus groups (Research report: Experiences and Perceptions of Homophobic Violence and Discrimination)
- In the second part we present the actual cases of discrimination and violence against the LGBT population, which happened/was happening during the period of the implementation of the programme (Monitoring and Recording of Cases: Personal Testimonials), and their analysis,
- The third part deals with issues of legal inequality originating from the Registration of a Same-Sex Civil Partnership Act (ZRIPS).

The conclusion of the report includes recommendations for changes which are based on the main findings of the programme.

Roman Kuhar, Jasna Magić

# Experiences and Perceptions of Homophobic Violence and Discrimination [Research Report]

"The latest public opinion polls in Slovenia show that approximately 40 % of respondents would not want a homosexual person for a neighbour. This means that in the apartment building where I live, 40% of people living there do not want to live in the same building."  
(Goran, 27)

## 1. Introduction

The main aim of the research-activist project *Activate!*, carried out by the non-governmental Organization Društvo informacijski center Legebitra, during the period between November 2007 and November 2008, was to acquire detailed information about violations of rights, violence and discrimination that LGBT people in Slovenia have been facing during the last 5 years. This period covers the five years since the publication of the last survey regarding this topic in Slovenia.<sup>1</sup> The survey *On Everyday Life of Gays and Lesbians in Slovenia* (Švab and Kuhar, 2005), which included 443 gays and lesbians, has shown that 53 % of the respondents have already experienced violence because of their sexual orientation. Most commonly they were victims of psychological violence (91 %), followed by physical violence (24 %) and sexual violence (6 %). The most dangerous space for LGBTs is the public space, as that is where the majority of violent incidents happen. In the majority of cases (63 % for men and 57 % for women) the perpetrators were strangers. Similar findings were discovered in the survey *On Discrimination on the Basis of Sexual Orientation* (Greif and Velikonja, 2001), which surveyed 172 lesbians and gays. It also revealed that 86 % of victims of violence on the basis of sexual orientation never reported the incident(s) to the police.

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<sup>1</sup> The survey on everyday life of gays and lesbians – the results are published in the book *The Unbearable Comfort of Privacy* (Švab and Kuhar, 2005) – was carried out in the years 2003 and 2004. Although the survey did not focus solely on the issues of homophobic violence, the topic was included in the survey. Before this, the first and only focused questionnaire in Slovenia on discrimination on the basis of sexual orientation was administered in 2001 (Greif and Velikonja, 2001).

The research part of the *Activate!* programme consisted of three parts: (1) semi-structured interviews (personal testimonials) with victims of homophobic violence and discrimination in the period from 2007 to 2008, (2) a questionnaire for LGBT population, (3) focus groups with LGBT participants. In this part of the research report we present the results of the questionnaire and focus groups.

The questionnaire with 19 questions was posted on the internet portal *SurveyMonkey* (calls to participation in the research were issued through LGBT mailing lists, internet pages and forums, and with the help of the LGBT *Narobe* magazine), while the printed version of the questionnaire was available in the *Narobe* magazine and at the seat of the Legebitra NGO. The questionnaire was available from 30 June 2008 to 25 September 2008. During this period the online version of the questionnaire was completed by 140 respondents and the printed version by 9 respondents.<sup>2</sup> The questionnaire published in *Narobe* magazine – the readers were encouraged to complete either the printed or the online version – also included an overview of the reports from national surveys administered so far with regard to homophobic violence, workplace environment, asylum, partnership, family life, health care and similar; it also included an overview of basic human rights, taken from the *Convention on Human Rights and Fundamental Freedoms*, and relevant Slovene legislation, which prohibits discrimination on the basis of sexual orientation. In addition to collecting data we also attempted to inform and raise awareness.

The questionnaire was designed to convey whether the LGBT population in Slovenia is familiar with the national and European mechanisms and systems for protection of human rights, whether they turn to support systems in case of violations, and especially, what kind of experiences of violence on the basis of their sexual orientation they are facing. We also wished to establish the geography of homophobic spaces – which spaces are the most dangerous for LGBT persons – and find out what kind of experiences LGBTs have with reporting of actual violations to appropriate authorities.

At the end of our survey, two focus groups (gay and lesbian, respectively) with 10 participants were carried out. Each group had 5 participants (5 women and 5 men). The focus groups were implemented in October 2008 and they were designed to give us an insight into how LGBT individuals understand and deal with homophobic violence and discrimination, where and how often they are exposed to violence, violations and discrimination and how they respond to violence and violation of rights. We invited all the interested participants, regardless of whether they had experiences with discrimination on the basis of sexual orientation or not.

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<sup>2</sup> The sample of respondents is not representative, because representatives in research of hidden social minorities, where the basic demographic data is not known, is not possible. At the same time, such research would presume fixed identity positions, which is extremely problematic in the case of LGBT individuals and in the context of fluid identities.

Among the participants in the focus groups, who were invited through LGBT mailing lists or through personal acquaintance, 80 % had participated or still actively participate in non-governmental societies and organisations. The majority of participants in the focus groups also previously completed the questionnaire, and three of them also participated in the individual semi-structured interviews of the *Activate!* programme.

## 2. Demographics

The online and printed versions of the *Activate!* questionnaire were completed by 149 respondents. 52 % defined themselves as male, 47 % as female and a percentage of respondents did not define themselves either as male or female.<sup>3</sup> Among the respondents, with regard to their self-definition, almost 43 % were gays, 30 % lesbians and almost 22 % bisexuals. The sample also included a transsexual person, while 6 respondents did not choose any of the given options<sup>4</sup>.

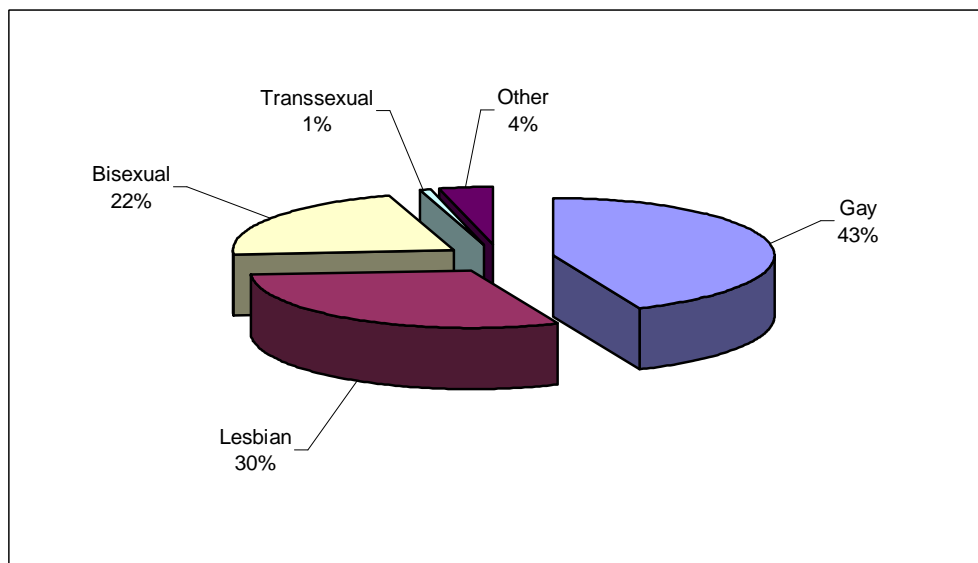


Figure 1 – Self-definition of respondents

The youngest participant was 14 at the time of the survey, the oldest was 50. According to individual age groups there are no significant deviations with regard to gender of the respondents – all age groups, as shown in the figure below, include a few more men than women, yet deviations with regard to gender are around 5 %, with the exception of the last group.

<sup>3</sup> This was the case with two respondents. The first defined himself as a transsexual, the second defined his identity as sexually fluid.

<sup>4</sup> Besides the provided definitions of gay, lesbian, bisexual and transsexual, the participants also had the option of choosing queer, which was not chosen by any respondent.

Almost 85 % of respondents included in the sample were between 20 and 30 years of age. The results of this questionnaire therefore predominantly reflect experiences of this age group.

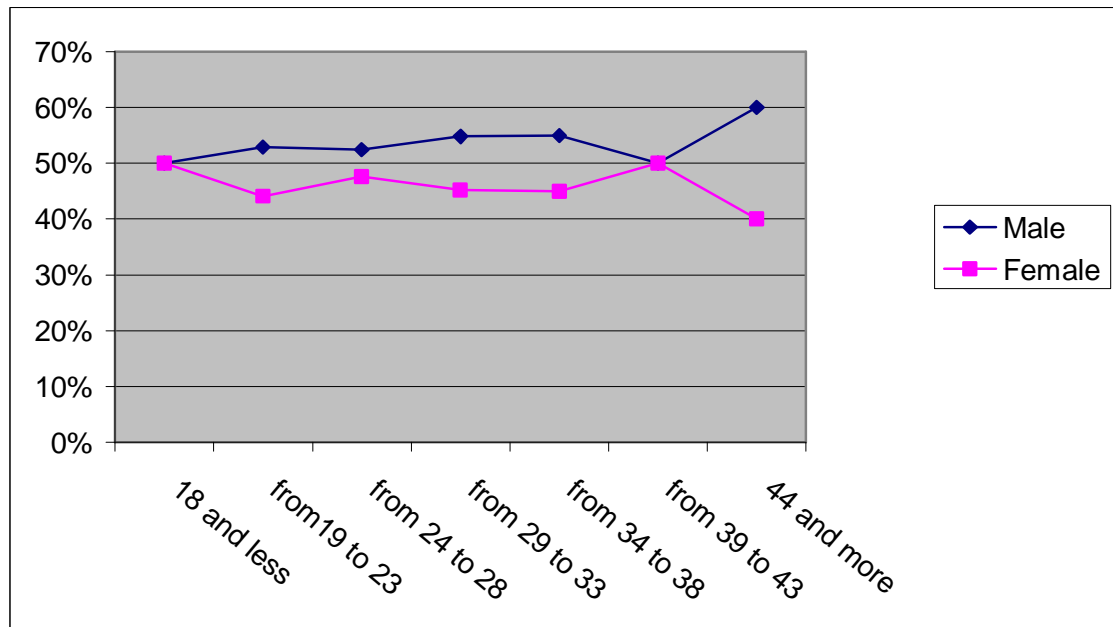


Figure 2 – Sample division according to age groups

If the sexual division of the sample is satisfactory, the geographic dispersal of the pattern is decidedly poorer: the majority of respondents, more than 63 %, live in the area of the Ljubljana postal code.<sup>5</sup> But since we were asking the respondents to provide their current residence and not their permanent one, and taking into account the age group of the sample, the large share of participants from the area of Ljubljana can be attributed to the fact that the respondents were predominantly students who have temporary residence in Ljubljana (see Table 1).

Postal code	Ljubljana	Maribor	Celje	Kranj	Nova Gorica	Koper	Novo mesto
Share (in %)	63.1	6.0	5.4	10.1	4.0	6.0	2.7

Table 1 – Geographical dispersal of the sample

<sup>5</sup> In order to maintain a high level of anonymity we asked the respondents to provide only the first digit of the postal code of their current address.

In addition to their basic demographic information the respondents were also asked to state to what degree they have revealed their sexual orientation to the people around them. Proportionally, the largest part of respondents stated they were out to the majority of people, followed by those who were out only to good friends. The sample contains also a little over 5 % of those who were not out to anyone (see Figure 3).

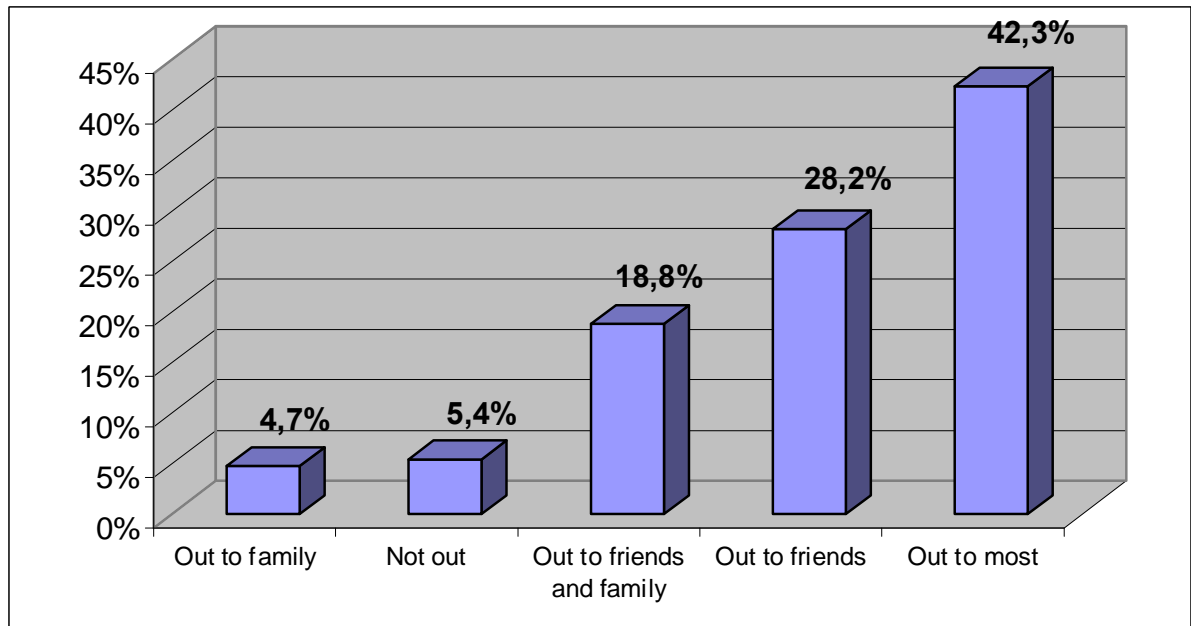


Figure 3 – Levels of outing

In the second part of the research we formed two focus groups – the first one included five men, the other five women. The majority of participants were from urban centres, Ljubljana or Maribor (90 %), the rest were from smaller towns across Slovenia. 40 % of participants were students of undergraduate and postgraduate studies and 60 % were employed persons. The average age of focus group participants was 27.8 years. 20 % of participants were over 30 and 80 % under 30 years of age. The focus groups therefore comprised the same age group that also represents the majority of respondents in the questionnaire part of the research.

### **3. Human rights and discrimination**

The questionnaire of the *Activate!* research was divided into two parts. In the first part we surveyed LGBTs' level of knowledge about their rights, knowledge about institutions dealing with these rights, sensitivisation of the population to the questions of homophobic violence and also to what degree LGBT persons are informed about the procedures of reporting homophobic violence or discrimination.

The second part dealt with experiences of violence and discrimination themselves. We wanted to learn about what kind of forms the violence takes and how often it occurs and about the experiences the victims of violence have with the support system, police, and other institutions offering support in cases of violence.

#### **3.1. Knowledge**

Almost 71 % of respondents claimed they were familiar with their human rights as defined in the *European Convention for Protection of Human Rights and Fundamental Freedoms*. The survey revealed no statistically significant differences between genders or age groups. At the same time, slightly more than 68 % of respondents claimed to be familiar with the current Slovene legislation, which prohibits discrimination on the basis of sexual orientation. There is a statistically significant link between the two answers: those who are familiarised with their human rights are, as a rule, also familiarised with the national anti-discrimination legislature and vice versa.

71 % of those familiar with their human rights stated that they had experienced violations of these. Almost half (48.9 %) of those familiar with their human rights, (who have also experienced violations of these), were also familiar with the existing support system and did know where to seek assistance in such a situation (see Figure 4).

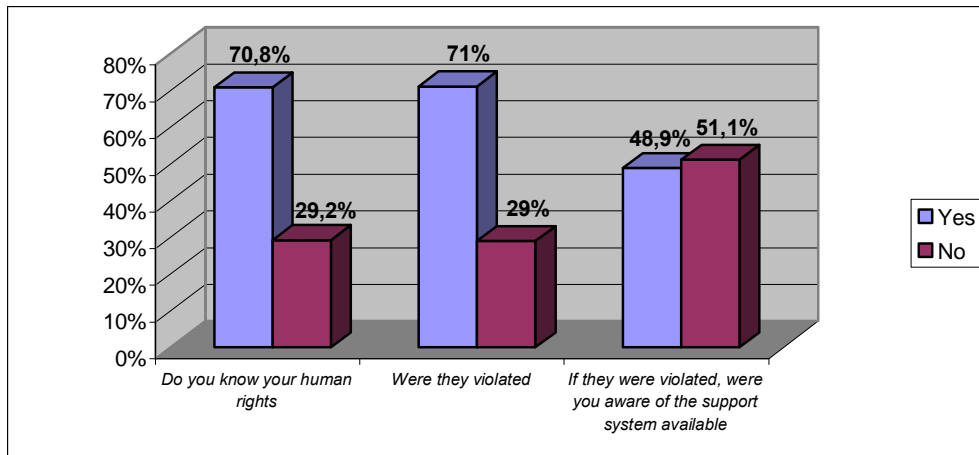


Figure 4 – Correlation between knowledge about human rights, violations of these and knowledge of the support system

If general knowledge about human rights is on such a high level – although it must be taken into account that respondents were asked to perform a self-evaluation and we did not test the actual knowledge – the knowledge of the support systems among those who experienced violations was poorer. While there is a connection between knowledge about human rights and violations of the same, there are no significant differences in knowledge about the institutions where an official complaint of a violation and discrimination can be made among those who have experienced violation in comparison to those who have not. Among all the institutions mentioned (see Table 2) the highest level of recognition was given to the police, the Office of the Human Rights Ombudsman and non-governmental institutions, where violations of human rights or discrimination can be reported. The lowest level of recognition was received by the Medical Chamber and the Health Inspectorate.

	Familiarised with option for official report of violation/discrimination (in %)
Police	92.4
Office of the Human Rights Ombudsman	89.1
Non-governmental organisations	62.2
Labour Inspectorate	54.6
Equal Opportunities Office	42.9
Equal Opportunities Officer	39.5
Commission for Petitions, Human Rights and Equal Opportunities	35.3
Health Inspectorate	18.5
Medical Chamber	12.6

Table 2 – Knowledge about options for official reports

Among the LGBT population included in the research, the knowledge of the most general social institutions, such as the police and the Human Rights Ombudsman, is very good, while the knowledge about specific institutions, where specific violations of human rights can be reported, is significantly poorer. Among them the question of health care services stands out. Some surveys (e.g. Greif and Velikonja, 2001) reveal examples of discrimination of LGBT persons in health care, while the knowledge about the possibility of reporting these to institutions which specialize in dealing with such cases – like the Healthcare Inspectorate – is very poor. Among those who revealed that they had been denied access to health care services (in the case of six respondents), one knew about the possibility of reporting the incident to the Healthcare Inspectorate and two for the possibility of reporting it to the Medical Chamber. A similar situation is observed in the case of workplace discrimination. From the sample, 7 respondents claimed they had been discriminated against in the workplace due to their sexual orientation, but only one of them knew about the possibility of reporting discrimination to the Labour Inspectorate. Although the analysed sample is small and not representative, and therefore does not allow generalizations, the obtained data still suggest the need for greater sensitivisation of inspectorates to discrimination on the basis of sexual orientation (also in the sense of advertising, e.g. actions for sensitivisation to sexual harassment at the workplace), and at the same time raising awareness of LGBT population about the options and importance of reporting the violations.

The latter was also expressed by the participants in the focus groups who pointed out that individuals with an experience of violence or discrimination would frequently talk about it in their own narrow circle, while an official report to appropriate institutions is still hindered by fear, connected to revealing their sexual orientation and to potentially being exposed to abusive attitude of officials.

“In spite of the fact that we are increasingly aware of violence against us and that we define it as such, there is still fear. I, personally, know a lot of individuals who have experienced violence but who don’t want to talk about it or report the incident.” (Sara, 23)<sup>6</sup>

“If I were attacked I probably would not report the incident to the police, because this could potentially expose me to scorn and insults.” (Mary, 28)

Some participants in the focus groups believed that fear of reporting was not connected only to expectations of an abusive attitude from institutions, but also to the additional attention given to the experience of homophobic violence or discrimination that an individual with such an experience does not want.

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<sup>6</sup> The names given with the statements are invented – all the focus group participants were asked to choose a different name, with which they are presented in this report. The number after the name represents the age of the participant.

“People lack courage when they have to react to violence. I myself would not want additional attention if I were a victim of violence.”  
(Marija, 30)

### 3. 2. Experiences

For the purpose of the survey we defined discrimination as “unequal treatment of individuals in comparison with somebody else” due to personal circumstances, sexual orientation being among them. 67.6 % of respondents reported that according to this definition they have already been discriminated against. The results presented on the following pages are therefore connected only to the experiences of this group. 51.1 % of them are male, 45.8 % female, 2.1 % (2 respondents) defined themselves as transgendered persons (see Figure 5).

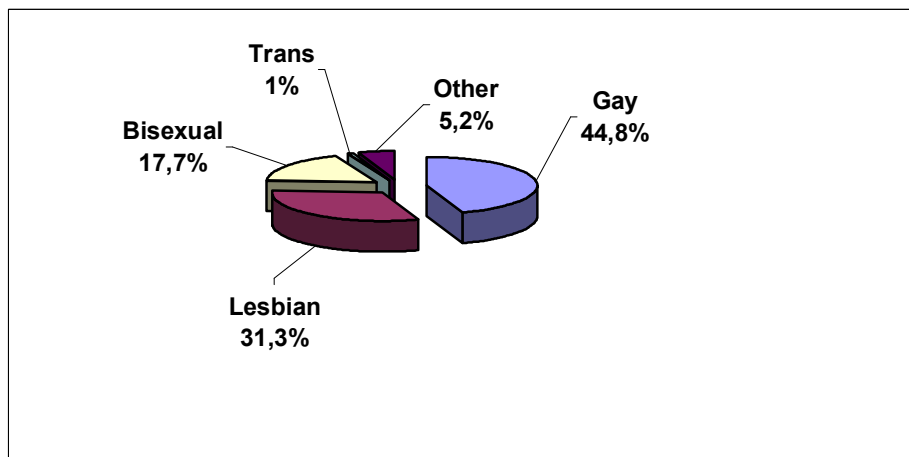


Figure 5 – Sexual definitions of respondents who have experienced discrimination

This sample consisted of 96 respondents and the majority of these reported being out to most people (44.8 %), others are out to friends and/or family; the sample also included 4.2 % of people who were not out, but have still experienced discrimination due to their sexual orientation.

#### 3.2. 1. Forms of homophobic violence and discrimination

Respondents who have already been discriminated against because of their sexual orientation most often mentioned insults, ignoring or intentional exclusion from a group and threats of physical violence as the forms of discrimination they have been exposed to. The comparison between the genders shows it was mostly men who were exposed to these forms of discrimination, although this does not mean that women do not experience

discrimination because of their sexual orientation. Among the sampled women, 74% have experienced insults, 32 % were intentionally excluded from a group and so on. Table 3 shows results according to gender (shares show the percentage of those who have experienced a specific form of violence within the same group) and according to the specific form of violence.

Form of violence/discrimination	Male		Female		Trans/fluid identity		Total
	% according to type	% according to gender	% according to type	% according to gender	% according to type	% according to gender	
Name-calling	43.6	83.7	34	74.4	2.1	100	79.8
Intentionally excluded from a group or ignored	20.2	38.8	14.9	32.6			35.1
Threat of physical violence	20.2	38.8	10.6	23.3	1.1	50	31.9
Pursued or followed	7.4	14.3	8.5	18.6			16
Sexual harassment	6.4	12.2	6.4	14			12.8
Personal belongings stolen or otherwise vandalised	7.4	14.3	4.3	9.3			11.7
Pushed, hit, kicked or beaten	9.6	18.4	2.1	4.7			11.7
Other types	4.3	8.2	7.4	16.3			11.7
Thrown objects at	6.4	12.2	2.1	4.7	1.1	50	9.6
Spat at	5.3	10.2	3.2	7.0			8.5
Sexually abused	4.3	8.2	3.2	7			7.4
Refusal of health care services	5.3	10.2			1.1	50	6.4
Turned away or dismissed from work	5.3	10.2	1.1	2.3			6.4
Harassed by the police (without use of physical force)	4.3	8.2	1.1	2.3			5.3
Refusal of housing	4.3	8.2	1.1	2.3			5.3
Refusal of another public service	4.3	8.2					4.3
Attacked or injured by weapon	2.1	4.1					2.1
Detained by the police without reason	2.1	4.1					2.1
Beaten or attacked by the police							
TOTAL	52.1	100	45.7	100	2.1	100	100

Table 3 – Various forms of violence according to the type of violence and gender (in %)

Among the given forms of violence none of the respondents have experienced physical violence by the police. While the sampled men experienced all the other forms of violence, women did not report being refused access to health treatment and other public services, were not attacked with a weapon and have not been detained by the police without reason.

The frequency of homophobic violence is impossible to establish because the police do not keep separate statistics on homophobic violence. We can also conclude that the majority of such attacks are never officially reported. The participants in the focus groups still believed that homophobic violence has been on the rise during the last years, partly as a response to greater visibility of the LGBT community, partly as a consequence of a global process of diminishing tolerance towards minorities. Azrael (38), for example, said that he had been a regular at the K4 club on Sunday nights for 15 years. He has always felt safe there, except for this year, for the first time, when he was intimidated at the entrance by three men.

“Violence is an anti-reaction of the society towards LGBT individuals. Before, the life of LGBTs was reduced to the private sphere. Recent outbursts of violence would like to push LGBTs back into that privacy.” (Goran, 27)

“This violence is also a result of a wider social movement across the whole world, which shows intolerance of the society, general dissatisfaction of the society; it seems it’s a reflection of it all together.” (Matic, 23)

Among additional forms of homophobic violence in the questionnaire (open answers) the respondents mentioned especially verbal violence, such as gossip, rude questions, mockery, verbal abuse, insinuations, verbal violence of clerks, politicians and similar occurrences. The participants in the focus groups also stressed verbal abuse as the key form of homophobic violence which is not recognised and is not frequently talked about.

“When I was attacked on the street, my view of violence changed completely, because I realised that insults were also violence, that violence was not only physical. It was then that I realised that words hurt as much as fists.” (Sara, 23)

“I feel psychological violence is more devastating for an individual than the physical kind; a discriminatory look is often enough, because it says everything.” (Franci, 23)

Participants in the focus groups believed that neither the society nor the LGBT population react to verbal and non-physical forms of violence. It seems that violence, which is not physical, is accepted as a part of everyday life. However, one female participant believed that physical violence, too, could become invisible in the same way.

“Psychological violence towards us is completely acceptable, because everyone can say what they believe, for example that gay people seem unnatural or sick to them. And we accept it as if this were somebody's legitimate opinion. But it's not right. What concerns me most is the fact that we do not react as we should.” (Peter, 35)

“I believe we have become immune to violence against us. We often say: ‘Oh, two people got bashed after the Pride Parade, it’s nothing new.’” (Sara, 23)

“We live in an indifferent society, where one cannot expect any significant reaction to violence or violations, except from the individual it concerns.” (Matic, 23)

In the questionnaire participants stressed the unequal treatment before the law (e.g. in case of marriage, sick leave, partner’s health insurance benefits, taking out common loans, etc.). The individuals who defined themselves as having a trans- or fluid identity mentioned problems of people not accepting their identity and an offensive attitude of a psychiatrist, who talked to them about disturbances of sexual identity and similar. One of the female respondents gave a very revealing answer: she said that she had “experienced all forms of violence [...] in her own family.” Surveys (e.g. Švab and Kuhar, 2005) show significant differences among the gay and lesbian populations: the first is more exposed in the public space, while the other experiences more violence in the private sphere – which renders the latter form less visible and recognizable.

“In the past I was not aware of the fact that your family not speaking to you because you are a lesbian is also violence. When I think back I realize that many parents do not speak to their children when they come out or they even become violent towards them.” (Sara, 23)

The participants mentioned different situations in the open answer part of the questionnaire about the circumstances of homophobic violence or discrimination they have experienced. Generally, they can be divided into violence (1) in a public place, (2) in school, (3) in relationships with neighbours, (4) in the workplace, (5) in the family, (6) among friends, (7) by service providers and (8) in same-sex partnerships.

## **Public space**

The majority of respondents mentioned incidents experienced in the public space – from insults, provocations and yelling to the use of offensive names. They bring forward reports of, for example, "drunken people" annoyed by alleged or visible signs of homosexuality (such as holding hands). Some were told by the people on the street they were "behaving inappropriately", because they were holding hands with a person of the same sex. In these situations, the individuals were insulted (insults such as "Get lost, faggots!") or insulted and marked as deviants (comments such as "Look, the faggots are coming"). One female respondent reported: "While my girlfriend and I were walking around Ljubljana, a group of guys called us dykes and told us to go to "various destinations", with suggestions of what we should do there." In similar situations individuals were also beaten or threatened with physical violence by strangers. One respondent revealed that while he and his boyfriend were walking down a street people threw stones at them, while a female respondent, being recognized as a Pride Parade participant, experienced people throwing food at her and laughing at her. Another female respondent reported a street musician refusing to play when he discovered a lesbian was listening, whilst another reported random men "offering their sexual services" to her. These statements clearly show that homosexuality becomes a problem when it stirs the heteronormative geography of the public space. In the crowd of heterosexual images, for example in the street, rare homosexual images stand out and are perceived as threats that must be removed.

"Sexual orientation becomes an issue from the standpoint of violence and discrimination when you enter a public space and publicly announce you're gay. Many people feel threatened and perceive your coming out as a provocation." (Goran, 27)

## **School**

Similar verbal and physical attacks also occur in schools. The respondents mentioned insults and bullying, which they experienced during breaks and especially during physical education classes (for example, some pupils were not chosen to participate on someone's team). "When I was in primary school they abused me, pushed me, I was not accepted," wrote one of the respondents and added: "Later you become tougher and you don't allow anyone to harm you. Today it does not affect me any more, because I have enough self-confidence."

Schools, where LGBTs still experience pressure, verbal abuse, exclusion and physical violence, are an important factor in the maturing process of every individual. Any kind of exclusion can have a negative influence on the psychosocial development of the youth. The participants in the focus groups

especially stressed the non-existing reactions of teachers, who face homophobic violence daily, beginning with the most common insult – *faggot*.

“In secondary school I witnessed a bashing of a guy who was supposedly gay. I tried to pull them apart but I didn’t succeed. Later I reported the beating to the headmaster and one of the teachers, but they didn’t react. The guy was later beaten several more times, but I did not report the beatings anymore. Today I would be more determined.” (Sara, 23)

## **Neighbours**

LGBT persons also experience homophobic violence from their neighbours. One respondent talked about physical attacks and harassment by a homophobic neighbour. "The neighbour encouraged the local youths to go on rampages and attack only gays in the neighbourhood." A similar experience was reported by one female respondent, who had been insulted and harassed by a neighbour: "She spread gossip around the apartment building, someone – I don't know who – urinated in front of my basement storage room several times. When the neighbour sees me she throws some insult or other at me, the last time she also spat after me." One other female respondent told us about a neighbour who purposely vandalised her car because of her sexual orientation.

## **Workplace**

Workplace discrimination most often appears in the form of verbal violence (such as insults and mockery). One male respondent mentioned sexual abuse and a female respondent spoke of mobbing and ignoring she experienced at a temporary job: "Colleagues, who were supposed to show me the ropes, did not do so and they sort of ignored me in the office and during breaks."

Discrimination at workplace is also connected to legally unregulated status of same-sex families. One respondent mentioned not being allowed to go on maternity leave at the birth of her son, whose biological mother was her partner. "In spite of the fact that I’m the other parent, legally I have no right or duty toward my son."

## **Family and friends**

Homophobic violence is also carried out by the closest family. Respondents talked of humiliation, threats, exclusion, ignoring and verbal assaults from family members, in one case even of physical violence. Victims of such violence were also friends and partners of the respondents: "My parents regularly, seemingly innocuously, humiliated me and my friends, as well as my partner. It was about ignorance, silence." Similar experiences were reported by participants in focus groups.

"For me the most violent environment is the family. At family gatherings there are questions about partners, plans for the future and children. Nobody ever asks me anything. Everybody knows I'm a lesbian, but it's not talked about. Everybody is avoiding the subject."  
(Mary, 28)

Similar forms of apparently harmless violence were also reported by respondents in connection with their friends. "Friends excluded me from their midst, they made fun of my sexual orientation and uttered insulting remarks."

### **Public services**

Among the instances of discrimination and homophobic violence the respondents particularly highlighted is the discrimination which the LGBT persons face in connection with public services, especially health care services. Some reported that they had been denied such services due to their sexual orientation or the attitude of health care workers became abusive after they had come out. One respondent revealed: "My personal physician has negatively changed her attitude since she'd found out I was gay." While one female respondent had been refused a gynaecological examination because "she hasn't had sexual intercourse with men yet", male respondents also mentioned they were unable to donate blood because they had had sexual intercourse with men.

### **Same-sex partnerships**

Violence is present also in same-sex partnerships. This kind of violence was not mentioned by the majority of respondents; however, one female respondent said she had been a victim of violence coming from her partner because of her partner's internalised homophobia. This kind of violence was also mentioned by members of the focus groups.

"LGBT people experience a lot of psychological pressure also from our partners, especially if they are not outed. This influences the partnership and the quality of the relationship." (Goran, 28)

#### **3.2.2. Anticipation of homophobic violence**

"If you are justifiably afraid of something, this is already a form of violence. I noticed that I'm often afraid, also of having to explain everything to people [...] I'm afraid I'll go to a mechanic and they'll tell me that only a husband or wife can pick up the car. I'm afraid of their reactions when I tell them I have a husband, will they be fair or will I receive poor service because of it?" (Peter, 35)

Homophobic violence, as suggested in the statement by one focus group participant above, is not only a physical experience but appears also and especially as a threat of such violence. Gays and lesbians often mention a kind of an estrangement effect which appears in a public space; due to potential threat of homophobic violence they try to "discard" all visible signs of homosexual identity. This is anticipation of homophobic violence in the heteronormative environment, where the existence of such an environment alone – and the threat of violence connected with it – can be interpreted as a form of violence.

One focus group participant mentioned, for example, how homophobic media reports always warn her that the threat of homophobic violence is always present and that awareness of this generates fear of such violence, which is, in fact, already violence.

"Absorbing the media I sometimes realise how hostile the environment can be towards LGBTs. This awareness is good because I may be more careful in certain situations, but at the same time it sometimes makes me feel almost paranoid." (Vita, 28)

It seems that the common ground for experiences of gays and lesbians is not only the experience of homophobic violence, but predominantly fear of such violence. Individuals are always aware of such threats, regardless of whether they themselves have had an experience of violence or not. "Almost every day I think about violence against us," claimed Lina (23), a focus group participant, while other participants stated that thinking about potential violence was connected to the geography of space.

"I think about violence against us mostly around the time of more visible LGBT events. Then I ask myself - what could happen?" (Sara, 23)

"At home I feel safe. I don't think about violence against me as a lesbian until I leave the house." (Marija, 30)

The public space generates the greatest amount of fear of homophobic violence. It seems – according to results of surveys in Slovenia – justified. The *Survey of every day life of gays and lesbians in Slovenia* (Švab and Kuhar, 2005) showed that from around 53 % of gays and lesbians who have experienced homophobic violence, 61 % experienced it in a public space (street, bar, etc.) and it was carried out by strangers.

### 3.2.3. Reporting homophobic violence

"After the attack I felt very strong, so strong in fact I wanted to tell everyone what had happened. I wanted to tell everyone that it was not alright, that it's not OK. [...] At the same time I also felt like everyone knows now, that they know where they can find me, insult me and beat me. But it didn't stop me from reporting the incident, also to the police, since I feel it's important to talk about this kind of violence. But I was also scared as I had never been before during this time, because my picture appeared in all the important media. First I didn't leave my apartment for almost 2 weeks, and even when I did go out, I kept looking over my shoulder to see if someone was following me. (Sara, 23)

The majority – more than 92 % of respondents – did not report the discrimination or homophobic violence to the police. Among the 8 % who reported it are only the respondents who are out to their families or most people. Coming out is, at least to a certain degree, linked to willingness of individuals to officially report homophobic violence, although being out is not a guarantee for a report. Respondents who reported violence reveal that the attitude of the police at the time of the report was neutral (60 %) or supportive (40 %). None reported a negative attitude at reporting homophobic violence or discrimination. It seems that fear of a negative reaction by the police is mostly anticipated rather than based on actual experience.

"I believe a system of protection by appropriate authorities, especially the police, could be more effective. It's clear that our trust in the police is not considerable. It's hard for LGBTs to come to the police and report an attack, because we know there is still a lot of homophobia among the police." (Vita, 28)

Open answers to the question why the respondents did not report the violence or discrimination can be divided into several types. Most often the respondents stated that reporting did not seem sensible, because they would not achieve anything by it; or, as research on violence towards women also shows, as the victims of violence reduce the importance of the attack and do not attribute great significance to it. They believe that the violence they experienced was not "significant enough" to justify its reporting (see Figure 6).

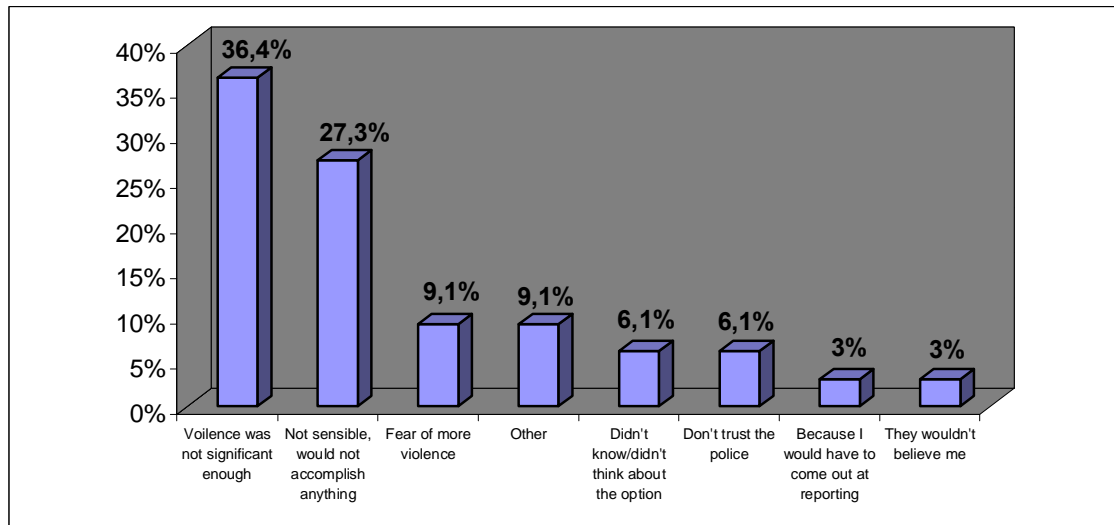


Figure 6 –Reasons for not reporting violence/discrimination

Participants in the focus groups shared these opinions. They also pointed out the phenomenon of denying homophobic attacks or discrimination – when individuals re-interpret a certain reaction and try to separate it from their homosexual identity. The violence they experience is therefore not linked to their sexual orientation.

“There is always a *maybe*. [...] Then I think maybe this comment, question or remark... maybe it was not meant like that!?” (Peter, 35)

In spite of minimalisation - reduction of the significance – of violent act as expressed by the respondents in their answers to why they did not report violence or discrimination to the police, the majority of respondents, slightly less than 88 %, relayed their violent experience to their friends and almost 28 % also reported it to their families. The experiences of homophobic violence are thus discussed merely within the private circle of the victim, as the majority also did not seek help with the LGBT non-governmental organisations. Only 5.2 % of victims of homophobic attacks turned to them.

The participants in focus groups also believe that keeping homophobic experiences to the private sphere will not lead to lowering and prevention of such violence. They mentioned two solutions to this problem. The first solution is consistent reporting of each occurrence of homophobic violence. In their opinion this can bring greater recognition of such violence.

“Until the attacks are reported and recorded, the violence against us in the eyes of society does not exist.” (Sara, 30)

“In comparison with violence experienced by other minorities, it seems that violence against LGBTs is almost a taboo and so doesn’t get much attention.” (Goran, 27)

The second step toward prevention of homophobic violence is to change and implement appropriate legislation.

“The politics must actively show that it won’t tolerate violence against the LGBT population, must adopt appropriate laws on the basis of this, which will in turn provide equality before the law also in practice; it must also exercise them appropriately.” (Peter. 35)

#### **4. Conclusion**

“If I were to respond to every case of violence, discrimination or inequality on the basis of sexual orientation, I could deal with these 24 hours a day, every day.” (Azrael, 38)

“If we were raised to stand up for ourselves and respond to all inequalities and injustices that happen around us and find courage within ourselves to finally do something, instead of saying that that’s the way it is, that I’m just a helpless person who cannot change anything, then we could probably react to violence more decisively.” (Vita, 28)

The results of the presented survey more or less confirm the already existing data on incidence and experiences of homophobic violence in Slovenia. However, the survey also gathered some previously unknown information, including the findings about respondents’ self-assessed high level of knowledge of basic human rights and national anti-discrimination legislation. 71 % of respondents confirmed that they were informed about their human rights; a little over 68 % said they were familiar with the existing Slovene anti-discrimination legislature. While knowledge of general human rights is on a high level, the knowledge of support systems among those whose human rights have been violated is decidedly poorer. More than 51 % of respondents, upon experiencing violation of human rights, did not know about the appropriate support system.

The research revealed that the most recognisable institutions, where violations, violence and discrimination can be reported, are the police, followed by the Human Rights Ombudsman and the non-governmental organisations; the Medical Chamber and the Health Inspectorate received the lowest level of recognition. The gathered data suggests the need for greater sensitisation of inspectorates to discrimination on the basis of sexual

orientation, and also the need to raise awareness of LGBT population about the available options and the necessity of reporting violations.

In comparison with older research the presented survey shows an increased level of experienced violence and discrimination on the basis of sexual orientation in comparison to that reported in the previous years. 67.6 % of respondents reported they have already been discriminated against because of their sexual orientation. Here it must be pointed out that the gathered data is not directly comparable because of different methodological approaches and the non-representativity of the samples. We estimate that the level of homophobic violence did not lower significantly in the last five years; this field, however, requires further study.

The results we received about the most common types of homophobic violence confirm the findings of previous surveys. Respondents who have already experienced discrimination because of their sexual orientation most commonly mentioned non-physical violence: insults, ignoring or intentional exclusion from a group and threats of physical violence. The participants in the focus groups also stressed verbal violence as the basic form of homophobic violence, which is not recognisable and is rarely mentioned. They also warned about an important characteristic of homophobic violence – the anticipation of such violence, especially in public, which requires of LGBT persons to "discard" their homosexual identity when in public.

The majority of respondents (more than 92 %) did not report the discrimination or homophobic violence to the police. The most common reasons for not reporting are reduction of meaning of such violence and a conviction that a report would not solve anything. This is also linked to the bad image of the police, rooted in the gay and lesbian community, although the results of our survey show that those who reported violence were not met with a hostile attitude by the police upon reporting homophobic violence or discrimination. The participants in the focus groups pointed out that the continuous and consistent reporting of homophobic violence is one of the more important steps to greater visibility and recognisability of such violence.

## **Monitoring and recording of cases [Personal testimonies]**

An important method of gathering data was also the use of semi-structured interviews with victims of homophobic violence or personal testimonials of persons who experienced violation of rights and violence between 1 October 2007 and 1 November 2008.<sup>7</sup> This method of personal conversation provides the most in-depth approach to gathering information, because a conversation enables additional explanations of different situations, events or patterns, which could not be given through online questionnaires. A personal interview also enables posing additional questions and it is the most appropriate method for acquiring specific information regarding violations such as physical attacks, threats and intimidation.

Through personal interviews we attempted to offer the participants additional support and information in case they needed them. As a result, we interviewed only those who had been victims of homophobic incidents during the set time period. Through the interview, which always took place in a safe and confidential space, we also wanted to inform LGBTs about the rights they are entitled to, about the procedure of reporting to the police and encourage LGBTs to report the actual cases of violation of rights, intimidation, verbal and physical attacks and hate speech.

Within the framework of the programme we met with 11 individuals, who in total reported 12 incidents of discrimination and/or homophobic violence. We were unable to obtain more detailed information about two cases – a case of a physical attack (two persons were attacked) and a case of hate speech, because the contact persons decided not to cooperate in the research. In spite of this both cases are included in the survey because we managed to obtain enough information to confirm the validity of acquired data regarding these cases.

All persons who have faced discrimination and violence on the basis of sexual orientation within the period of the implementation of the programme, regardless of whether they have already sought help with other support organisations or institutions, were invited to participate in the programme.

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<sup>7</sup> In its pilot phase the *ACTIVATE!* programme was carried out between 1 November 2007 and 31 October 2008; since our active recording of cases had already started in October 2007, the phase of personal testimonials also includes violations which happened in October 2007.

We categorised the documented cases of homophobia in the following manner:

- a) Physical attack and threat to safety: 6 cases
- b) Threats and propagation of hate speech: 3 cases
- c) Refused access to goods and services: 1 case
- d) the Registration of a Same-Sex Civil Partnership Act - ZRIPS: 2 cases

Since the issue of legislative inequality, arising from the Registration of a Same-Sex Civil Partnership Act (ZRIPS), is dealt with in detail in the next chapter, the present chapter focuses on the other 10 cases.

Six cases were formally reported to the police, four reports were followed by criminal prosecution. In two cases the report was filed by the Organisation Društvo informacijski center Legebitra (physical violence, propagation of hate speech), in the case of refusal of entrance to a bar, the report and charges were filed by the organisation ŠKUC-LL; in three cases of physical attacks the reports and charges were brought to the police by the individuals themselves. Except for one case, where the court ruled in favour of the plaintiff and established that the violation of equal rights did indeed occur, the other recorded incidents remain officially under investigation.

As established in the survey part of the programme, more than 92 % (N = 96) of individuals did not report homophobic violence and discrimination to the police or even non-governmental LGBT organisations.<sup>8</sup> The victims of violence, be it physical or psychological, hesitate to talk about their experiences, therefore leading us to believe that the 10 documented cases of violence and discrimination do not even begin to reflect the real state of discrimination and violence against the LGBT population in the past years. Furthermore, the location of recorded cases is Ljubljana (location cannot be determined in the case of threats sent via e-mail), as we could not obtain information about homophobic incidents from other towns and places in Slovenia.

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<sup>8</sup> Here: 18

## **2.1 Description of cases**

Description of cases is made according to categorization of cases given above (e.g. physical attack and threat to safety, threats and propagation of hate speech and refused access to goods and services); where several incidents come under the same type, they are dealt within that group in chronological order.

In personal testimonials we attempted to acquire the following information:

- a) What happened? In what manner? When? How long did it last for? How many times did it happen? Who was the perpetrator?
- b) What characterizes the incident as homophobic violence or discrimination?
- c) Is there any evidence of the incident (witnesses, passers-by, cameras, etc.)?
- d) What were the consequences of homophobic acts?
- e) Was the incident reported to the police or any other competent authority, and were these efficient in their work?

### **2.1.1 Physical attack and threat to safety**

#### ***K4. December 2007***

##### **Description of circumstances and place of the incident:**

On 23 December 2007, around 4 a.m., Azrael (38) was leaving the K4 club in Ljubljana. Right after coming from the passageway that connects the street and the club, in front of the ŠOU building and the Metropol bar, a car pulled up and three men got out, aged between 25 and 30. They surrounded Azrael and one of them asked him: "Are you a faggot, too?", while another said: "You grabbed his ass, didn't you?" Azrael clearly denied both claims, closed his eyes and waited to get bashed, when the three suddenly moved away. Azrael believed it was because a larger party of people could be seen coming from K4. At first he did not look back to see if anybody was following him: "Because I was surprised that everything ended without any harm," he said. A similar experience is shared by another visitor that night, who decided not to participate in the programme, but information about his incident certainly substantiates Azrael's experience. The guest of the club, whom we will name Brane, posted an e-mail, dated 27 December 2007, on the mailing list intended for debates about LGBT topics and notices on LGBT events – Mreža (The Net). He wrote:

*"First they were bumping into people and threatening in K4, then security removed them. A group of 6 guys ("southerners")<sup>9</sup> stepped up to my friend in front of the passageway and asked him if he was a faggot, then one of them grabbed him by his neck and gave him two "black eyes". At that moment a taxi arrived and I grabbed my friend, seated him in the car, while I got a going-away punch from one of the group. Fortunately, it was nothing serious."*

**Witnesses:**

Azrael does not remember any witnesses, especially because he left K4 alone, and he did not look around for witnesses, as he wanted to get home as quickly as possible after the assailants had moved away.

**Reaction:**

Azrael and Brane reported their incidents on Mreža, Azrael also to the Organisation Društvo informacijski center Legebitra, while only Azrael decided to talk about the incident. While Brane does not mention the possibility of reporting the incident to the police, in the interview Azrael mentioned that he did not report it to the police immediately after the incident, because he wanted to get home as soon as possible. Later he did not report it either, because he is not from Ljubljana, and he did not want to expose himself to reactions and potential ridicule of the police at reporting homophobic violence in his home town. He also added that he found it important to talk about these incidents and he therefore reported his experience to several other institutions and individuals.

**Consequences:**

Brane's description of the event suggests both friends were physically attacked, while Azrael was threatened. In the interview he said he was ashamed: *"Because I thought I would never deny my sexual orientation to anyone because of fear of physical violence."* He also said he felt helpless and was angry and shocked about what had happened. He does not think about the incident very often, but when he is alone in Ljubljana, he prefers to avoid certain places (Metelkova. surroundings of K4), and he avoids larger groups of people, especially if they are loud and seem violent.

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<sup>9</sup> Meaning "from the republics of former Yugoslavia".

## ***Pride Parade 2008***

### **Description of circumstances and place of the incident:**

On 21 June 2008, around 8 p.m., Peter (35) was leaving the Pride Parade, which was held on the same day from 5.p.m. at Prešeren Square in Ljubljana. He was carrying a rainbow umbrella and a flag, which he put in his car on Tavčarjeva Street. Shortly after he received a blow to the head from the side and the attackers pushed him against the car, yelling "Fuckin' faggot!" and ripping his Pride Parade T-shirt. Peter also received blows to his body. When he turned to face the attackers they were already running away along Tavčarjeva street. Peter said that the attack did not last more than a minute and the blows came mostly from behind or the side, so he could not get a good look at the attackers. He also could not remember the details because he was in shock.

On the same day at approximately the same time, Franci (23) and his two female friends stopped by one of the fast food places on Trubarjeva Street in Ljubljana. A group of younger men was also there and they later attacked him in Ilirska Street in front of student housing blocks. While hitting and kicking they yelled *Faggot!* and *Sissy boy!* Franci believes he was attacked because he was wearing the Pride Parade T-shirt, since they literally ripped it off his body. The girls were not attacked. The attack lasted for about a minute until Franci started to fight back and one of the girls also stepped in, after which the attackers escaped. They were 4 younger men, aged around 20.

The third attack, recorded on the same day, in which two people were attacked, happened around 1 a.m. on Dvořak Street in Ljubljana, in the vicinity of the K4 club. Marko (33) drove into this street with his partner and a friend and parked the car. When he and his partner waited by the car, under a street light, for the friend to withdraw money from an ATM, a group of young men approached them and Marko didn't even notice them before receiving the first blows to the back of his head. He was in shock, he didn't know what was going on and after receiving a few blows to the head he realised he was being attacked. To protect his partner, who was unconscious because the attackers had kicked him to the ground, he started hitting and screaming and the attackers fled towards Tivolska Road. Even today Marko is still unsure whether there were 4 or 5 attackers, because he was attacked from behind. They are supposedly younger men, aged between 25 and 30.

### **Witnesses:**

Franci and Peter both mentioned witnesses to the incidents. Peter mentioned that he had seen at least three passers-by who witnessed the attack, but none responded, none even asked him if he needed any help. "The incident was also recorded by the cameras, but the footage does not reveal any characteristics of the attackers except that they were younger males in shorts and T-shirts," Peter said. Franci had a similar experience. He did not notice any witnesses, but his friends told him they had seen a few passers-by

in the vicinity who even encouraged the attackers. None offered Franci any help. Marko does not remember any witnesses, while the attack was recorded by cameras of the parking house in Dvořak Street.

#### **Reaction:**

Franci and Peter sought help at the emergency hospital unit immediately after the attack. Marko and his partner sought medical help the next day. All three individually reported the attack to the police and also pressed charges. Cooperation with the police was professional, but they say they received conflicting information regarding the medical examination and continuation of the procedure. Franci and Marko also mentioned that the police had trouble finding field notes from the crime scene when they returned a few days after the attack to press charges. In the interview they mentioned they all believed it was very important to react to the attacks, be it in the form of a report to the police, informing about the attack, cooperation with the media, etc. The police are still investigating all three cases.

#### **Consequences:**

All the victims had minor bodily injuries. Peter had a swollen eye and suffered pain and bruises on the body. Franci needed a neck support. Marko and his partner felt pain in their backs and necks for a long time after the attack. Marko mentioned psychological consequences: "Since the attack I cannot sit in a bar with my back toward the door. I simply must see what is going on around me." Peter mentioned feeling ashamed and shocked, and had taken a week off sick after the attack in order to face what had happened; after a while things calmed down: "During the day I don't think about what could happen to me on the street, but I'm still uncomfortable in the evening or during the night." After the attack Franci turned to his family, who supported him. He believes he will have no major consequences because of the attack, but it has made him more careful and alert.

### ***K4 October 2008***

#### **Description of circumstances and place of the incident:**

On Sunday, 26 October 2008, around midnight in front of the K4 club in Ljubljana, Matej (30) turned from Gosposvetska Road to Kersnikova Street. In front of the passageway between the ŠOU building and the Metropol bar, which leads to the K4 club, he noticed 3 hooded persons with skateboards and a ball lying at their feet. When he came closer and wanted to go through the passageway, one of the men kicked the ball at him, another one ran after it, which was the beginning of the attack, as one of the men yelled: "Do the faggot!" Matej was supposedly attacked with a pole, but he did not really see it because he had his back to the attackers. He got two strong blows over the back and the elbow and escaped to the area in front of the K4 immediately after. He did not see his attackers' faces because they wore hoods and darker clothes. In the club he told a colleague about this incident and the colleague mentioned having an encounter with the same group that evening.

The group stopped him and two of his colleagues in Kersnikova Street. They were holding clubs. When they asked him if he was going to K4, he denied it for his own safety and went along Kersnikova, past the club. He went to the club later, when the men were not standing in front of the passageway anymore.

**Witnesses:** Matej was alone; except for the attackers, the passageway was empty. The incident was recorded by the cameras in the passageway.

**Reaction:**

Matej did not report the incident to the police, nor did he notify the security at the club, because he did not feel safe even when in the club. He thought about reporting it to the police but decided against it, partly because he did not have proper identification documents on him. However, he did notify the organiser of the party in the club a few days later and he notified the Organisation Društvo informacijski center Legebitra. Matej agreed to an interview, Legebitra notified the police and submitted a formal report on the attack. The police are investigating the case.

**Consequences:**

For several days Matej felt pains in the back and elbow where he was hit with a club, but did not see a doctor. In the interview he said that the attack had lasted only a few moments, but he had been caught unprepared and had not expected it. When he realised what was happening he became scared, but also angry and shocked. He does not think about it very often, although he has become more careful and alert, especially when going to K4 alone.

## **2.1.2. Threats and propagation of hate speech**

### ***Threats to DIH***

**Description of circumstances:**

On 17 January 2008, DIH (Association for Integration of Homosexuality) received an e-mail with a threat that called to persecution and bashing of LGBTs. The representative of the association concludes that they received the threat because of the association's target audience being LGBT population and the association is one of the co-organisers of the annual Pride Parade. The correspondence between the association and an unknown person is provided below; it does not contain the electronic address for reasons of protection of information.

*date: Jan/17/ 2008/6:16 PM*

*subject: Motherfuckers*

*Motherfuckers you all who support faggots. Are you really so dumb you think we'll accept faggots?? Get lost you motherfuckin' faggots. We'll beat the shit out of you and all the fags we see. KILL KILL KILL THE FAGGOT FAGGOT FAAAAAGGOT*

DIH answered that they will turn over the received e-mail to the proper authorities. They received a reply:

*date: Jan/18/ 2008/5:03 PM*

*subject RE: Motherfuckers*

*Don't make me laugh you dickface. You gonna prosecute me, motherfuckin' faggots. See you at the Pride Parade 2008, only then you wont have time for "proper authorities" because we'll get you, cunts!*

**Reaction:**

DIH did not report the threat to the police, but they did turn it over to the Organisation Legebitra and investigated the case themselves. In the interview the DIH representative mentioned that their investigation revealed information on the e-mail account holder. They planned to turn the information over to the police in the event the threats continued.

***Hate speech on Mavrični forum***

**Description of circumstances:**

On 18 October 2008, administrators of Mavrični forum (Rainbow forum – an online debate forum for LGBTs) noticed several posts, the contents of which called to bashing and killing of LGBTs. The user, nicknamed “burn”, registered on the forum on the same day and posted more than 15 intolerant and hate instigating posts in various topics within 2 hours. A few of those are provided below:

*Theme: Were you ever in a fight? / Burn Yesterday. 20:00*

*When we were fucking up faggots none were too brave. Even when I myself approached a faggot and gave him one, none of them hit back so I don't know exactly, if you are looking for a fight you dont go look for faggots. But they are the nicest to break. I was also in Serbia in 2001 when we deflected faggots and also the police. KILL KILL KILL THE FAGGOT!!!*

*From: Get to know me / Burn Yesterday. 20:02*

*Well no faggot here would probably want to know me. If he does then he blows. Death to faggots!*

*From: Why are you lesbians? / Burn Yesterday. 20:08*

*The answer to question why dykes and faggots are in this world is simple. There has to be scum in this world. Fuckit that's just the way it is. Only dykes have privileges with skinheads and hooligans as me or anyone else cannot hit a woman because it's beneath me. We are happy to take the faggots apart tho. Sickos.*

**Reaction:**

Moderators of Mavrični forum immediately removed the controversial posts from the forum and blocked the user "burn". They immediately notified Mreža about the incident and also discovered that the posts had been sent from the network of T-2 internet service provider. They sent the company T-2 d.o.o. examples of posts and asked for their help. The report to the police was submitted by the Organisation Legebitra upon agreement with the moderator of the forum.

Around the same time that hate speech appeared on Mavrični forum the appearance of hate speech on an LGBT forum Roza simbioza (Pink symbiosis) was discovered. Controversial posts, posted by a user nicknamed "Skinhead88", were visible on 26 October 2008. On the same day we asked the moderators for more information on the incident and their permission to publish the posts, but we have received no reply to our request for cooperation.

**2.1.3. Denied access to goods and services*****The "Orto bar" case*****Description of circumstances and place of the incident:**

On 11 October 2007, in Orto bar in Ljubljana, a lesbian couple (23 and 25 years of age) experienced intolerant attitude from a security guard and the owner of the bar. The girls kissed, which the guard saw on the security camera. On the basis of this he demanded they leave the bar and suggested they "go to such a bar where such things are done". The couple complained to the bar owner who cautioned the security guard that he had acted inappropriately, and he assured the girls they could return to the bar. He also said that "Orto bar is a bar for heterosexuals". His words did not show he regretted the incident.

**Witnesses:**

The witnesses to the event were friends of the two girls, who did not react to intolerant attitude of the guard and did not support the girls; instead, they returned inside.

**Reaction:**

The girls notified the activists of the lesbian community in Ljubljana about the incident via e-mail. After about a week an official complaint in their name was made to the police by the organisation ŠKUC-LL. In this case the report was successful, as stated in the *Narobe* magazine: "In June 2008, the County Court in Ljubljana proposed an out of court settlement, to which both parties agreed. Orto bar was found guilty, and the state prosecutor ordered sanctions which the perpetrator of a criminal offence is obligated to settle."<sup>10</sup>

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<sup>10</sup> *Narobe – revija, kjer je vse prav*, no. 7 - 2008: 2

### **Consequences:**

The couple experienced remarks by strangers on the street before but the girls were quite shocked by the incident. They knew they had been wronged, but they also felt anger and disappointment at the passivity of their friends who witnessed the incident.

## **2.2 Analysis of cases**

### **General conclusions:**

#### Timeframe of documented cases and frequency of homophobic acts:

An increase of frequency in physical attacks and hate speech is noticeable at more visible events for LGBT people, for example the Pride Parade.<sup>11</sup> In spite of this the trend of organising physical attacks and threatening can be found outside of this frame, since attacks and threats occasionally occur also at weekly Pink nights at the K4 club, where we recorded 3 instances of physical attacks in 2007 and 2008, two in October 2007 and one in October 2008. Physical attacks in 2008 were not limited only to events in the evening and at night as, in contrast to previous years, two attacks happened during daytime, which suggests more daring assailants. Physical attacks also changed in the sense that in the same day/night several attacks occur by the same group of assailants, as supported by the examples of physical attacks around K4. In comparison with physical violence, the recorded examples of discrimination, threats and hate speech against LGBT population cannot be specified time-wise, because the majority did not happen around the time of larger events (October 2007, January 2008 and October 2008), although statements or acts of perpetrators may hint at them.

#### Location of documented cases:

The incidents in which six out of eight individuals experienced threats, refusal of services or a physical attack in a public place, confirm that the most dangerous place for LGBT people is the public space. All documented cases of physical assaults and threats occurred in the centre of the city of Ljubljana; within this area the most problematic points are the area around the annual Pride Parade route or the vicinity of the K4 club. E-mail or online forums

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<sup>11</sup> Physical attacks and hate speech around the Pride Parade have been appearing ever since 2005. After the 2007 Pride Parade 4 men bashed a gay person, who ended up in the emergency unit; on the day of the Pride Parade anti-gay graffiti appeared in Ljubljana (DEATH TO FAGGOTS! DESTROY THE FAGGOTS!). Ljubljana was also covered in stickers which depicted crossed-out gay couples and uncrossed heterosexual couples, with an inscription: "Let's preserve the Slovene nation." A day before the 2006 Pride Parade participants of *Akcija strpnosti* (Action for Tolerance) held in Maribor were attacked. The day after the Pride Parade in Ljubljana two more attacks happened, in which two gays were injured; a co-organiser of the Parade, her girlfriend and friends were intimidated by a larger group of young men. In 2005 we documented three homophobic incidents in which a total of 7 persons received injuries; all had to turn to the emergency unit for help. The attacks happened in the week around the Pride Parade, from 27 June to 3 July 2005.

Sources: <http://www.narobe.si/stevilka-1/nasilje-na-paradi-ponosa.html>, <http://www.narobe.si/stevilka-3/tema-parada-ponosa.html> and <http://24ur.com/novice/slovenija/pretepi-zaradi-homofobije.html> (27/11/2008).

intended for LGBT population are becoming an increasingly popular delivery system for threats and hate speech from strangers.<sup>12</sup>

#### Characteristics of documented cases:

The presented cases of physical violence (as well as one of the examples of hate speech on Mavrični forum) show that the victims of such violence are predominantly gays. The relatively low number of documented cases does not, however, suggest that women are not victims of physical violence because of their sexual orientation.<sup>13</sup> Incidents also show that assailants usually attack in groups, and that they attack individuals. Assaults are short, the victim is attacked from the side or back, the perpetrators run away immediately after the attack. From the descriptions of victims we can conclude that assailants are mostly younger men, between 20 and 30 years of age. Since there have been repeated attacks in front of K4, where according to gathered information two attacks happened in one evening, as well as around the annual Pride Parade, it can be concluded that these attacks were organised ones. The presented examples of threats and hate speech display pronounced aggression of these messages, because they do not only call to bashing but also to killing of gays. The details of both cases reveal that the perpetrators of these acts obviously know exactly to whom they should send such a threat or even where to post it within a topic in a forum. The incident in the Orto bar shows that individuals, in spite of recognising unequal treatment of LGBT people, condone such behaviour and acts and believe that certain places are not intended for LGBTs. A fairly disconcerting feature of the majority of presented cases are the reactions of passers-by or witnesses. In the three cases we documented (Pride Parade and Orto bar) there were no reactions from witnesses of homophobic acts, or the passers-by even encouraged the attackers.

#### Consequences of violence:

Physical attacks on gays that we documented ended with minor injuries to the body and the victims sought help of physicians. Physical violence does not cause only physical pain, but also brings out the emotions characteristic of psychological violence: victims talked about feelings of helplessness, shame, anger and fear immediately after the attacks. Some took several days and/or weeks to go through what had happened, they did not leave the house following the attacks or only did so in the company of friends. They also mentioned they have become more careful and alert, especially in the evening or at night, and that they do not feel safe if they are alone.

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<sup>12</sup> The representatives of DIH and *Mavrični forum* both mentioned that these were not the first threats they have received over the Internet. DIH received threats containing hate speech also in 2006 and 2007, and the representative of *Mavrični forum* mentioned that before October 2008, the last example of hate speech they received was in August 2007.

<sup>13</sup> Cf. *Narobe – revija kjer je vse prav*, no. 1, 2007: <http://www.narobe.si/stevilka-1/nasilje-na-paradi-ponosa.html> (27/11/2008)

### 3. Conclusion

Fear and prejudice toward LGBTs show themselves through various forms of homophobic acts. In the cases we monitored the discrimination and violence on the basis of sexual orientation were manifested in the form of physical attacks, intimidation, threats, hate speech and denial of access to goods or services. Two documented cases deal with inequality before the law arising from the Registration of a Same-Sex Civil Partnership Act (ZRIPS)<sup>14</sup>. Cases with personal testimonials relate exclusively to the public space, while the research part of the programme concluded that violence and discrimination are also present in the education system, in the workplace, within healthcare services and, as various forms of emotional violence, within the family, among friends, in relations with neighbours and also in partnerships.<sup>15</sup>

One of the more prominent characteristics, which should not be generalised, shows that gays are significantly more exposed to physical violence than lesbians. Gavan Titley, who in his recommendations in the European policy Young People and Violence Prevention deals with violence towards young gays, believes it is because same-sex orientation is still defined in relation to real manliness and the connected overlapping categories like femininity and weakness. "The attackers put gays in the category of non-real men because of their looks and behaviour, and thus single them out as targets for violence" (Titley, 2004: 26). According to the number of examined cases we can also deduce that the level of reporting of homophobic violence in Slovenia is very low, which suggests that many victims do not feel safe enough in dealing with the police as well as with other support mechanisms. When faced with violence, the victims usually deny their sexual orientation, and an experience of discrimination and violence brings feelings of fear, anxiety and shame and has long term effects on its victims. The documented homophobic acts also cannot be branded as coincidental because the descriptions show the assailants knew where to wait for LGBTs, and also where and/or to whom to address the threats and/or hate speech.

The analysis of data and the conclusions show that homophobic acts must be handled with utmost seriousness. In order to solve these issues we should establish a long-term strategy and concrete plans for decrease of homophobic violence within all social and political institutions and on all levels of society.

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<sup>14</sup> Within the scope of personal testimonials we documented two cases of discrimination on the basis of sexual orientation which concern legal (in)equality of same sex partners, as defined by the ZRIPS. The data, which reveals in detail the discrimination of same-sex partners within the society and by the state, was included in the article *Legal (In)Equality of Same-Sex Partners*, written by Neža Kogovšek, MA. Here: 26.

<sup>15</sup> Here: 14

An effective strategy should also follow the objectives given below:

- Active support of further research in the field of personal circumstance of sexual orientation, the results of which would influence the development of actual plans for decrease of homophobic violence;
- Establishment and support of systems for monitoring and gathering information on violence and discrimination on the basis of sexual orientation, which would encourage LGBT population to come forward with reports of incidents of homophobic acts and ensure higher investigation rates;
- Encouragement, support and development of trainings and education courses on the personal circumstance of same sex orientation for employees in the governmental as well as non-governmental sectors who work with victims of violence, as well as police officers, in order for them to be able to provide appropriate support;
- Increased support to existing systems, which are still being developed or are already offering support programmes for victims of homophobic acts;
- Providing a more active and effective approach to promotion of tolerance and establishment of other mechanisms for reducing homophobia in a wider society.

## Legal (In)Equality of Same-Sex Partners

Slovene legislation dealing with same-sex orientation can be divided into three parts: anti-discrimination legislature, the act and regulations which govern the registration of same-sex partnerships, and individual acts from their respective fields, which mention same-sex partnerships within their provisions.

Prohibition of discrimination is defined under Article 14 of the Constitution of the Republic of Slovenia, which states that in Slovenia, all citizens have equal rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other conviction, material standard, birth, education, social status, disability or any other personal circumstance. Among personal circumstances the same-sex orientation is not mentioned explicitly, but "any other personal circumstance" can also include sexual orientation.<sup>16</sup> Prohibition of discrimination in the Slovene legislature was more accurately defined by the transfer of Council Directives 2000/43/EC and 200/78/EC, and the adoption of Implementation of the Principle of Equal Treatment Act on 22 April 2004. This act prohibits direct or indirect discrimination, harassment and instructions for discrimination due to sexual orientation (and other personal circumstances) on all levels of social life, including:

- conditions for access to employment, self-employment and profession, including selection criteria and conditions for employment and promotion,
- access to career counselling, professional and expert education and training, further professional training and retraining, including work practice,
- employment conditions and conditions of work, including termination of contract of employment and salaries,
- membership and joining an organisation of employees or employers or professional organisation, including the benefits that these organisations provide,
- social protection, including social security and medical care,
- social benefits,
- education,
- access to goods and services available to the public, including housing, and supply of these.

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<sup>16</sup> Commentary on the Constitution of the Republic of Slovenia.

The Implementation of the Principle of Equal Treatment Act is the cover act for all protected personal circumstances and all areas of social life; in the area of employment the prohibition of discrimination due to sexual orientation and other personal circumstances is regulated additionally and in greater detail by the Employment Relationships Act.

In cases where discrimination is carried out intentionally it can be prosecuted in accordance with Article 141 of the Penal Code, adopted on 28 May 2008, which defines the criminal offence of violation of the equality principle. Whoever, due to differences in respect of nationality, race, colour of skin, religion, ethnic roots, gender, language, political or other beliefs, sexual orientation, material condition, birth status, education, social position or any other circumstance, deprives or restrains another person of any human right or liberty recognised by the international community or provided by the Constitution or the statute, or grants another person a special privilege or advantage on the basis of such difference, shall be punished by a fine or sentenced to imprisonment of not more than one year. A criminal offence is also discrimination with access to employment and in the employment relationship (Article 198).

In the field of hate crime the Slovene legislature is inadequate, because the Penal Code does not include aggravated types of criminal offences such as threat to safety and violent behaviour, for which in the case of a homophobic motive, the offence would carry a more severe penalty than in the case of a basic form of such an offence. In other words, when members of the LGBT community are victims of such a criminal act of violence, their treatment is no different from the treatment of other cases, where the homophobic motive is not present, although the criminal act originated from such a motive. The homophobic motive can be taken into account only as an aggravating circumstance in defining a sentence and at sentencing, if the defendant is found guilty. In the field of criminal law some progress has been made, since the new Penal Code, in comparison with the previous one, also defines the criminal offence of hate speech due to sexual orientation. First paragraph of Article 297 of the Penal Code therefore defines that "the person, who publically propagates and encourages national, racial, religious or other hate, discord or intolerance, or encourages other kinds of inequality due to physical or mental disabilities or sexual orientation, is punishable with a prison sentence of no more than two years." Homophobic hate crimes and hate speech against LGBTs as a group or individuals can be sanctioned within the law in the field of offences, because the Protection of Public Order Act defines aggravated types of some offences in a manner that punishes the perpetrators with a fine more severely for certain acts which are made with the intention of propagating national, racial, sexual, ethnic, religious and political intolerance or intolerance regarding sexual orientation.<sup>17</sup>

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<sup>17</sup> These are acts defined under Articles 6, 7, 12, 13 and 15 of the Protection of Public Order Act, which are: violent or daring behaviour, improper behaviour, damaging of official inscriptions, signs or decrees, writing on buildings or destruction of national symbols.

None of the above-mentioned anti-discrimination legislature in itself removed obstacles for access to conclusion of partnerships, as they are based on the definition of marriage as a union of a man and a woman. After years of LGBT community's struggle for introduction of legislation that would enable a legal conclusion of unions between two same-sex partners, the Registration of a Same-Sex Civil Partnership Act (ZRIPS) was adopted in 2005. It regulates the registration, its legal consequences, the manner of dissolution of the partnership and relationships between the partners after dissolution. In spite of the fact that the act introduces the option of registration and grants some rights, which were not accessible to same-sex partners before, it is extremely inadequate and discriminatory in places. The first concern arises at the name of the procedure, which is called registration, because in Slovenia registration means, for example, a registration of a vehicle; the word is inappropriate for the procedure of concluding a union. The registration procedure is regulated very formally and it differs from conclusion of marriage in many ways. The partners cannot choose a solemn place for the registration, because according to the Rules on Registration of Same-Sex Partnerships (executive act) they can be registered only at administrative units during office hours. The procedure also does not provide for a festive form.

"The state, by adopting the ZRIPS, put same-sex couples into an inferior position, because it denied us mainly social rights. On the other hand there are symbolic violations of rights, for example a degrading name of "registration", rules on registration, which define that you cannot choose between a solemn and a formal procedure, cannot choose the day of concluding the union, you have no possibility of choosing the place or changing your name, you cannot register an extramarital union, there is no option of witnesses, no option of exchange of rings, no possibility to choose the time, and the rules also define that the procedure is always carried out in the middle of the week. All this clearly shows that we are treated entirely differently to partners of different sexes, where a couple simply arranges with their administrative unit the time and place of concluding their union."  
(David, 33)<sup>18</sup>

Any symbolic acts that the partners may want to include in the procedure, in comparison with concluding a marriage, which calls for a festive form already by law, depend on the goodwill of the official performing the registration.

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<sup>18</sup> The data from our participants, Ana, 34 and David, 33, treated in this article, were acquired through semi-structured interviews (personal testimonials), which were discussed in the chapter *Monitoring and Recording of Cases: Personal Testimonials*, p. 24. Since the content touches cases of discrimination on the basis of sexual orientation, which concern the legal (in)equality of same-sex partnerships, as defined in the Registration of the same-Sex Civil Partnerships Act (ZRIPS), their experiences are included in this chapter.

Here: 14

“As a registered same-sex couple you are left at the mercy of an individual, not only on an every day level, but also when you are dealing with the state. For example, it’s known that some couples who wanted to celebrate their relationship managed to arrange a more festive occasion with the help of more liberal heads of administrative units, whereas one can also find more conservative unit heads that follow the law more rigidly.”

(David, 33)

The ZRIPS also defines some rights and obligations granted to registered partners. They are granted the right to maintenance and the right to acquiring collective property, while the act also defines rights in property within the partnership, a right to housing, a right to inheritance of a part of the collective property of the deceased partner, and a right to obtain information on the medical condition of the hospitalised partner and visitation rights. The ZRIPS also names some obligations like mutual respect, trust and support.

As seen from the given rights, these rights almost exclusively regulate the field of collective property rights. While the majority of mentioned rights is regulated in the same manner as in heterosexual partnerships (marital or extramarital), the right to inheritance is regulated substantially differently and this places same-sex partners in an inferior position to heterosexual partners. Specifically, Article 22 of the ZRIPS differentiates between the special and the collective types of property of the partners and defines different forms of inheritance for each of these two types, while heterosexual partners’ inheritance is regulated according to the Inheritance Act, and is the same for the entire estate of the deceased heterosexual partner. The ZRIPS first defines the inheritance of the share of collective property, which the partners acquired during the duration of their registered partnership through work. If the decedent has children, the children and the living partner inherit the decedent’s property in equal shares. If the decedent has no children the remaining partner inherits it in its entirety. In this place the inheritance from same-sex partners is proscribed in a more favourable manner for the remaining partner. According to general rules of the inheritance law, as defined in the Inheritance Act, in case the decedent has no children, the remaining partner shares the estate with decedent’s parents, where the remaining partner gets one half and the parents the other. Inheriting the special part of the property is, as mentioned above, completely different. The ZRIPS states it is inherited according to the general rules of the inheritance law. Since the law on inheritance does not mention the registered same-sex partner, the remaining partner cannot inherit the special inheritance. If the decedent had children, they would inherit this special property in equal shares; if there were no children, this property would be inherited by his or her parents. These differences have not been explained by the legislator with any valid reasons that would justify such an arrangement. If special and

collective property do not differ in the inheritance law, differentiation in the ZRIPS does not seem sensible.

Besides the above-mentioned, the ZRIPS also leaves out another one of the more important rights, the main aim of which is to regulate the economic and social position of the remaining partner in the case of the other partner's death – the right to a compulsory portion. If the decedent, after his or her death, leaves all the estate to somebody else in a will and leaves out the remaining registered partner, he/she can be left without anything, because the law does not provide this right, and the general Inheritance Act cannot be applied, because only the ZRIPS is applicable for registered partnerships in the area of inheritance law as *lex specialis*. Due to these reasons Article 22 of the ZRIPS is currently under review at the Constitutional Court, where the initiating parties (registered same-sex partners) claim that the inheritance is regulated in a discriminatory fashion, and the only reason for unequal treatment is the sex and sexual orientation of the initiators.

“The ZRIPS most clearly shows that inheritance is regulated differently, without reason, with fewer rights for the registered partnership in comparison with the matrimonial relationship. This is a living arrangement of two partners, yet the same matter is regulated in two different ways, and the basis for unequal treatment is sexual orientation.”

(David, 33)

As mentioned above, the act introduces only a limited array of rights and obligations (right to maintenance, right to support), while the majority of rights to which the heterosexual partners have access remain unattainable to same-sex registered partners. Except for obligation of performing registration of same-sex partnerships the act does not create any obligations for the state. Therefore this act, as well as other predominantly social security acts, does not equalise same-sex partners with heterosexual partners (marital or extramarital), although these are areas which are vital to the social and economic security of registered partners. A registered partner cannot be insured under the other partner's policy and they cannot use the benefits which come from such insurance (for example, a widower's pension).

“On one hand the act does not allow medical and pension insurance under your partner. It also stipulates that you have to take care of your partner in case of illness, while it does not give you the possibility to exercise these obligations, because, for example, the existing law does not allow you the right to use sick leave for taking care of your partner in a same-sex partnership.”

(David, 33)

The ZRIPS therefore does not allow the partner to be declared a dependant member of the family, does not afford the right to sick leave because of a partner's illness and the right to compensation of income for care for a member of the family. The areas of child adoption and relationships of partner's children towards the other partner remain unregulated, and the Slovene legislature also does not recognise extramarital same-sex partnerships.

Persons whose same-sex partners are not Slovene citizens also face numerous problems. The problems arise even before the persons can register. If a foreign partner requires a visa to enter Slovenia, the visa must have proper temporal validity, which is very difficult to obtain because of a very strict visa policy, since application for registration must be filed at least 30 days prior to the actual date of the registration. If the partners manage to register, the Republic of Slovenia does not allow the foreign partner to acquire a temporary residence permit deriving from the family unification, because the Aliens Act does not treat same-sex partners as members of the family.

"My partner comes from Russia and for a while we had a long distance relationship; in the beginning of 2007 we decided to move in together, and if we were a man and a woman, it would not be a problem. Since we are in a same-sex relationship on the basis of registration, as regulated by the ZRIPS, my partner cannot file for a residence permit claiming family unification. [...] We also wrote to the administrative unit and asked them if my partner could file for a residence permit if we were registered. The representative of the unit replied that in case of registration the ZRIPS does not treat my partner as a family member, and that according to the law on aliens she cannot file for a residence permit [...] We could register but it would not bring anything to our relationship and would not influence our situation. The ZRIPS and the Alien Act do not treat my partner as a family member, which would've been the thing that would've enabled us a normal life and which is automatically given to heterosexual couples."

(Ana, 34)

The examples show that there are large legal holes in the legislation, which do not provide registered same-sex partners equal access to economic and social rights on the basis of registered partnership, although this is a union which is the same as a heterosexual partnership in the economic and emotional sense. The solution is possible only in the form of equalisation of the status of same-sex and heterosexual partnerships, but until then, same-sex partners will be in an unequal position and will be forced to search for other ways to exercise these same rights.

"Since no legislative instrument could enable us a normal and quality life together, we exploited other options. At that moment we thought it was fantastic that I could literally buy a Russian visa, later we discovered we could also buy a Slovene visa for a longer period. I started to ask my friends if any would be willing to marry my partner, so we would be able to live together. In the end I slowly started to lose the sense for values, of what was right and wrong. I thought it was great that we could, for example, buy a visa for Slovenia, which is something completely illegal. At that moment I was prepared to do everything to protect the relationship. [...] In the end you only think about how to find that legal hole which would give you a normal life. And all this time you live in a kind of uncertainty and under pressure, and you don't know if you are going to succeed or not. [...] Our relationship was saved on a purely geographical level, because my partner got a job in Slovenia. If she hadn't I wonder what would have happened with us [...] Now, when the matters are settling down we're thinking about registering and filing for a residence permit on the basis of family unification that would be rejected, and then we could appeal the decision. Maybe we could help some other couple who is or will be in a similar situation."

(Ana, 34)

The legal vacuum that exists in the key areas of life of registered same-sex partners enables the partnerships to appear surprisingly equalised with those of heterosexual partners in some particular acts which deal with specific and predominantly economic fields of life. The Mental Health Act treats a same-sex partner as a member of the family and same-sex partners are also treated as (close) members of the family in the following acts: Banking Act, Insurance Act, Takeovers Act, Auditing Act, Foreign Exchange Act, Local Elections Act, Free Legal Aid Act, Service in the Slovenian Armed Forces Act, Scholarship Act, Social Assistance Act, Electronic Communications Act, Tax Administration Act, Act on the Taxation of Water Vessels, Corporate Income Tax Act, Public Guarantee and Maintenance Fund of the Republic of Slovenia Act and Real-Estate Recording Act. Registered same-sex partners are treated as related persons also in the Executions of Judgements in Civil Matters and Insurance of Claims Act, Personal Income Tax Act, Financial Operations, Insolvency Proceedings and Compulsory Disillusion Act, Supportive Environment for Entrepreneurship Act and Public-Private Partnership Act. The contents of these acts mainly show that the law equals the registered same-sex partners with marital or extramarital partners when the relations between partners could adversely influence the relationships or processes in the activities and procedures these acts regulate. Ordinarily, this equalisation does not bring the registered same-sex partners any benefits.

Some specific laws for specific areas grant the same benefits to the registered same-sex partners as they do to heterosexual ones, like for example the Family Violence Act, Patience Rights Act (it does not even require same-sex partners to be registered in order to recognise certain

rights), Inheritance and Gift Taxation Act (which regulates tax exemptions in case registered same-sex partners give each other real-estate or one inherits it from the other) and Real Property Transaction Tax Act (which regulates tax exemptions in division of property of registered same-sex couples).

Such fragmentation of individual economic and social areas of life leads to a complex discriminatory situation, which could simply be eradicated by complete equalisation of registered same-sex partners with heterosexual partners. If this does not happen, in spite of all the good intentions of the legislator, there will always be areas where such unions will not be recognised, which will cause countless problems for the partners in practice.

“In everyday life as a same-sex couple, you’re continuously discovering how discriminatory this law actually is, because it selectively defines some rights and overlooks all other circumstances. A very revealing example happened when I took the car, which is registered to my partner, for a technical examination, but I could not pick it up, although we are registered. When I came to pick up the car they asked me about an authorisation, when I told them we were registered, they wanted to see the registration licence. [...] Every day you find yourself in situations when you are humiliated, when you have to fight for your rights, which the heterosexual couples take for granted. It’s normal that a husband picks up the car if the wife drops it off at the mechanic’s and they do not have to show any certificates of their being married. [...] Situations in which you present yourself as a couple in public are numerous, when you rent a video, go to a library, when you deal with insurance companies, when you travel together, when you apply for work abroad and you would like to take your partner along. In day-to-day life, when you find yourself in very different situations, you keep hitting a wall and in practice your relationship actually does not exist. All this comes from the fact that the law does not grant you the status of a family member.”

(David, 33)

# Recommendations

The acquired data, statistical analysis of the questionnaire, qualitative analysis of personal testimonials and detailed presentation of legal inequality resulting from the ZRIPS Act, clearly point to the need for change which would directly or indirectly bring down homophobic violence within all social and political institutions and on all levels of society. With this in mind we designed the following recommendations for implementation of political, as well as social, changes.

## **Problem 1: Forms and frequency of homophobic acts**

Fear and prejudice toward LGBTs are manifested through different forms of homophobic acts. The results of the report show that the most common and most dangerous form is psychological violence, followed by physical violence, intimidation, threats, hate speech and refused access to goods and services. Homophobic violence most often occurs in the public space, in school, at workplace, in the family, and also from service providers. The findings of the research also clearly point out that Slovenia lacks detailed research in occurrence and frequency of violence against the LGBT community.

### **Recommendations:**

- ✓ The Republic of Slovenia should actively support organisations working in the field of providing equal treatment for LGBTs and offer support to victims of homophobic violence and discrimination.
- ✓ The Ministry of Labour, Family and Social Affairs, in cooperation with non-governmental organisations, who work in the field of providing equality for LGBTs, should prepare a strategy to tackle homophobia to be carried out on the national level. The strategy should serve as a tool for active and effective promotion of tolerance in the society and on all levels of the individual's life.
- ✓ The Ministry of Education and Ministry of Higher Education and Science and Technology, in cooperation with non-governmental organisations working in the field of providing equality for LGBTs, should prepare a strategy to tackle homophobia to be implemented on the national level. The strategy should establish levers for decreasing homophobia within the educational environments.
- ✓ The Republic of Slovenia should provide funds for additional research in the field of the personal circumstance of sexual orientation and homophobic violence.

### **Problem 2: Level of reporting of homophobic violence**

We discovered that the level of reporting of homophobic violence in Slovenia is extremely low, in spite of the fact that more than 63 % of participants in the research reported that they had already experienced such violence. This shows the need for greater sensitisation of inspectorates and the police to the discrimination on the basis of sexual orientation, and also for raising awareness among LGBTs about the possibilities and necessity of reporting violations.

#### **Recommendations for improvements:**

- ✓ The Ministry of Internal Affairs should establish and support a simple and LGBT friendly system, which would encourage LGBTs to report homophobic acts and provide a higher investigation rate of these.
- ✓ The Republic of Slovenia, in cooperation with non-governmental organisations working in the field of providing equality for LGBTs, should develop and support mandatory education and trainings on the personal circumstance of same-sex orientation for the police, as well as for providers of other public services (social workers, health care staff and other public employees), in order to provide same-sex oriented population with adequate and non-discriminatory services.

### **Problem 3: Frequency and occurrence of homophobic violence**

When LGBTs are victims of violent criminal offences the treatment of these acts is no different from treatment of other cases where the motive of homophobia is not present, although homophobia is the motive for the criminal offence. On the other hand the occurrence and frequency of homophobic violence are not known, because the police do not keep separate statistics on homophobic violence, and the data clearly suggests that the majority of such cases are never reported.

#### **Recommendations for improvements:**

- ✓ Within definitions and legal parameters, the Penal Code should include specified forms of criminal offences, for example threat to safety and violent behaviour on the basis of sexual orientation. In the case of proven homophobic motive these offences should carry a more severe penalty than in the case of the basic form of such a criminal act.
- ✓ The Ministry of Internal Affairs should upgrade the existing system of data collection about violence, discrimination and violations of human rights on the basis of personal circumstance with a mechanism which separately monitors and collects data on violence and discrimination on the basis of sexual orientation. The Ministry should also provide monitoring of the implementation of such a mechanism.

**Problem 4: The ZRIPS Act**

The legislature of the Republic of Slovenia regulating the status of same-sex partnerships contains large legal gray areas, which do not provide registered same-sex partners with equal access to economic and social rights on the basis of registered partnership, although this is a union which is the same as the heterosexual partnership in the economic and emotional sense.

**Recommendation for improvement:**

- ✓ The Republic of Slovenia should abolish all legal gray areas of the act which regulates the same sex partnerships (ZRIPS) and should equalise the position and rights of registered same-sex partners with heterosexual ones, including the legal recognition and regulation of the status of same-sex families and children coming from these families.

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