

Prepared by Public Organization “Informational-Educational Center “Za Ravnije Prava”

And Public Organization “Insight” OHCHR REGISTRY

(Ukraine)

15 DEC 2009

Action :

CEDAW

Copie :

DO (Encl.)

SHADOW REPORT

**DISCRIMINATION AND VIOLENCE AGAINST LESBIAN AND BISEXUAL WOMEN AND
TRANSGENDER PEOPLE IN UKRAINE**

Submitted for the 45thCEDAW Session

Public Organization “Informational-Educational Center “Za Ravnije Prava” is a non-governmental organization in the South of Ukraine that works to empower Homosexual and Bisexual people and protect their human rights since 2007. IEC “Za Ravnije Prava” provides services for over 400 lesbian and bisexual women (LB) in the South of Ukraine.

Public Organization “Insight” is a non-profit organization based in Kyiv that works since 2007 to improve the quality of life of homosexual, bisexual, transgender and queer (LGBTQ) people in Ukraine by empowering them, providing with services and implementing other informational, social, psychological, medical, cultural, legal and human rights events.

Introduction

With collapse of the totalitarian society and beginning of democratic processes in Ukraine as well as in the neighboring countries it became possible to talk about the issues the existence of which was suppressed and ignored before. However our social consciousness and the state policy are far from the level of the modern democratic country.

Ukraine is a party to such international treaties as International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Ukraine is a party of such European treaties as European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Protocol No. 12 to the ECHR concerning the general prohibition of discrimination (2000), and some more.

Nowadays due to the lack of clear rights for LGBT and articles of laws protecting LGBT from any form of discrimination on the grounds of sexual orientation and gender identity there is an issue of frequent violation of freedoms and rights of the given social minority group.

“Za Ravnje Prava” has documented cases of violence toward lesbian and bisexual people, including rapes, beating and psychological pressure, as well as domestic violence. In 2008 “Za Ravnje Prava” together with “LiGA” (LGBT non-governmental organization) under financial support of ILGA-Europe conducted the research among LGB community on human rights violations and discrimination on the grounds of sexual orientation and gender identity.

Insight has been working on empowering and representing transgender people since 2007. In 2009, the organization has undertaken a qualitative research on the situation of transgender people in Ukraine supported by ILGA-Europe and Astraea Lesbian Fund for Justice. The research helped to collect 36 oral stories of transgender people throughout Ukraine telling about their lives as trans-people, including discrimination experiences on the grounds of gender identity.

The status of Lesbian, Bisexual women and Transgender people under specific CEDAW Articles

Discrimination

Article 2 of the CEDAW Convention requires the State Parties to “condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women”. Ukrainian legislation contains several mentions of prohibition of discrimination against women (Constitution of Ukraine, Article 24) but there is no mention of the sexual orientation and/or gender identity in any legislative documents. Penal Code of Ukraine contains several articles that foresee punishment for the crimes committed against women such as Article 152. Rape, Article 153. Violent satisfaction of sexual pleasure in unnatural way and Article 154. Forced sexual intercourse. In Ukraine, there is no hate crime legislation. There is the only article of hate motivated crimes i.e. Article 161 of the Penal Code that foresee punishment for crimes motivated by national, religious or racial discrimination. But in these articles there is no mention that such crimes can be committed on hate basis, in particular, on the grounds of sexual orientation and/or gender identity. There have been no reported cases of rape of lesbian women in the country. In fact, Za Ravnje Prava was addressed by the lesbian women stating that she was raped by her brother-in-law. Equally, violence against transgender people is also not recorded and recognized as gender-based violence. Moreover, homosexual women and transgender people are predominantly afraid to complaint to the police since they often do not get any protection but get mocked at and harassed by police officers who have the ultimate power.

Invisibility

Article 3 of the CEDAW Convention requires the States Parties to “ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men”. An L/B/T person without a guaranteed by the national law right to sexuality and gender identity and/or expression experiences significantly more inequality than most other groups of women. Namely, visibility both in the public and in private spheres often leads to various forms of violence (physical, economic, emotional) and infringement of rights against homosexual women and transgender people. In turn, the fear of these sanctions makes LBT people suppress their identities. Thus Za Ravnje Prava has documented the case when the lesbian woman was refused to be tested for syphilis for she disclosed her sexual orientation. The case made the woman to suppress her orientation during the medical examination in the other hospital.

Legislation

In the Fourth periodic report of Ukraine on obligations undertaken regarding CEDAW there is no mention of lesbian, bisexual women and transgender people’s rights which restricts their “exercise and enjoyment of human rights and fundamental freedoms”. Lesbian, bisexual women’s and transgender people’s issues such as non-discrimination, equal possibilities and rights with heterosexual citizens are absent from any state documents which makes this group of women invisible for state programs despite their vulnerable status in the society.