



Lesbian Group Kontra

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**Written Contribution to the
3rd CYCLE OF THE UNIVERSAL PERIODIC REVIEW
of
REPUBLIC OF CROATIA**

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1. Lesbian Group Kontra is a feminist non-governmental organization that promotes human rights of lesbians. Kontra was founded in 1997 by women who were active in first feminist activist groups and who founded the first lesbian group in Croatia – Lila Initiative (1989).
2. Lesbian Group Kontra's mission is to achieve equality of lesbians by increasing visibility, instigating legal, political, institutional and social change and providing support and empowerment to lesbians.
3. We cooperate with other LGBTI and women's organizations. We are members of the ILGA and the European Women's Lobby (as a member of the Women's Network of Croatia).
4. We regularly cooperate with national minorities and Roma organizations on topics of hate crimes and hate speech. We cooperate with trade unions on protection of human rights of LGBTI workers.
5. Lesbian Group Kontra's activities include:
 - Counseling for lesbians: phone counseling, e-mail counseling, personal counseling, workshops, lectures and support groups;
 - Legal Team of Kontra: advocacy, providing direct legal help to LGBTI persons, strategic litigation;
 - Public campaigns, protests, manifestations and festivals with the aim of increasing lesbian and LGBT visibility in society;
 - Workshops, seminars, lectures, conferences, musical evenings, film projections and sports activities;
 - LezBib – lesbian library and archive includes: books magazines, films, INDOK center;
 - Education on LGBT and women's rights;
 - Publishing: books, reports on human rights, analysis, brochures;
 - Web page of Kontra with information and news: <http://www.kontra.hr>

Regress in legal protections of human rights of LGBT persons – right to protection of family life

6. United States of America during Cycle II recommended to Croatia to strengthen human rights protections for lesbian, gay, bisexual and transgender persons, in line with Croatia's international obligations and commitments as well as with domestic legislation¹.
7. The Act on Life Partnership of Persons of Same Sex² was adopted on 15 July 2014 and came into force on 1 January 2015.
8. The Act on Life Partnership of Persons of Same Sex defines life partnership as a family life union between two persons of the same sex, registered before a competent body, pursuant to the provisions of the Act.³
9. The Act on Life Partnership of Persons of Same Sex defines an informal life partnership as a family life union between two persons of the same sex who have not registered a life partnership before a competent body, provided the relationship has lasted no less than three years and from its beginning has met the requirements prescribed for the validity of a life partnership.⁴
10. The Act on Life Partnership of Persons of Same Sex guarantees equal treatment to same-sex life partners in relation to married couples in relation to property rights, inheritance, taxes, pension insurance, social care system, mandatory health care system, employment, access to public and market-related services, family reunion, freedom of movement within the European Economic Area, asylum, granting Croatian citizenship, and rights and obligations of life partners during the service of prison sentences.⁵
11. The Act on Life Partnership of Persons of Same Sex guarantees equal treatment to informal same-sex life partners in the fields of inheritance, the tax system, pension insurance, the social welfare system, compulsory health insurance and healthcare, rights and obligations concerning employment relations, access to public and market-related services and public law status as those granted to a common-law marriage relationship by separate regulations governing those fields.⁶

¹ Report of the Working Group on the Universal Periodic Review A/HRC/30/14, Para 99.77

² Zakon o životnom partnerstvu osoba istog spola (Act on Life Partnership of Persons of Same Sex), Official Gazette No 92/14, https://narodne-novine.nn.hr/clanci/sluzbeni/2014_07_92_1836.html

³ Zakon o životnom partnerstvu osoba istog spola (Act on Life Partnership of Persons of Same Sex), Official Gazette No 92/14, https://narodne-novine.nn.hr/clanci/sluzbeni/2014_07_92_1836.html, Article 2

⁴ Zakon o životnom partnerstvu osoba istog spola (Act on Life Partnership of Persons of Same Sex), Official Gazette No 92/14, https://narodne-novine.nn.hr/clanci/sluzbeni/2014_07_92_1836.html, Article 4

⁵ Zakon o životnom partnerstvu osoba istog spola (Act on Life Partnership of Persons of Same Sex), Official Gazette No 92/14, https://narodne-novine.nn.hr/clanci/sluzbeni/2014_07_92_1836.html, Article 50-79

⁶ Zakon o životnom partnerstvu osoba istog spola (Act on Life Partnership of Persons of Same Sex), Official Gazette No 92/14, https://narodne-novine.nn.hr/clanci/sluzbeni/2014_07_92_1836.html, Article 4

12. The Family Act⁷ adopted in 2015 defines an extra-marital union as a life union between an unmarried woman and an unmarried man, lasting at least three years or less if they have a child together or if they marry.
13. The Family Act guarantees to extra-marital partners equal treatment in the fields of taxes, personal, property and other relations of married partners.⁸
14. The General Tax Act⁹ was adopted in November 2016 during the first session of the ninth congregation of the Croatian Parliament, which guarantees equal treatment to extra-marital partners, life partners, and informal life partners.
15. At the same time Croatian Parliament adopted several special tax acts: Real Estate Act, Local Taxes Act, Personal Income Tax Act, Administrative Fees Act.¹⁰
16. While the Administrative Fees Act which imposes additional fees - included explicitly included extra-marital, life partners and informal life partners, all other special tax acts (the Real Estate Act, the Local Taxes Act, the Personal Income Tax Act), that were adopted at the same time and which guarantee benefits to married partners excluded extra-marital partners, life partners and informal life partners, and therefore derogated equal treatment guarantees from the Life Partnership of Persons of Same Sex Act and the General Tax Act. The result is discrimination of same-sex and unmarried different-sex partners in relation tax benefits. Additional changes to above acts were adopted in 2018 and new changes are now published at Government's portal <https://esavjetovanja.gov.hr/ECon/Dashboard> for public discussion, but new changes don't contain any mention of life partners or informal life partners.
17. War Veterans and d Their Family Members Act¹¹, which guarantees family pensions and benefits to members of family (including married and extra-marital different sex partners) of war veterans, adopted in 2017, excluded life partners and informal life partners.

⁷ Obiteljski zakon (Family Act), Official Gazette No 103/15, <https://www.zakon.hr/z/88/Obiteljski-zakon>, Article 11

⁸ Obiteljski zakon (Family Act), Official Gazette No 103/15, <https://www.zakon.hr/z/88/Obiteljski-zakon>, Article 11

⁹ Opći porezni zakon (General Tax Act), Official Gazette No 115/16, https://narodne-novine.nn.hr/clanci/sluzbeni/2016_12_115_2519.html, Article 15

¹⁰ Zakon o porezu na promet nekretnina (Real Estate Act), Official Gazette No 115/16; Zakon o lokalnim porezima (Local taxes Act), Official Gazette No 115/16; Zakon o porezu na dohodak (Personal Income Tax Act), Official Gazette No 115/16; Zakon o izmjenama i dopunama Zakona o porezu na dodanu vrijednost (Changes to Added Value Tax Act), Official Gazette No 115/16; Zakon o upravnim pristojbama (Administrative Fees Act), Official Gazette No 115/16;

¹¹ Zakon o hrvatskim braniteljima iz Domovinskog rata i članovima njihovih obitelji (War Veterans and d Their Family Members Act), Official Gazette No 121/17, https://narodne-novine.nn.hr/clanci/sluzbeni/2017_12_121_2758.html

18. Draft of the Changes to Social Care Act¹² (adopted in 2017) excluded life partners and informal life partners and included them only after reactions of civil society organizations.
19. Conclusion: there is clear intent of the legislator to derogate in certain parts provisions of the Act on Life Partnership that guarantee equal treatment to same-sex partners and at times extra-marital different sex partners. This results in regression in relation to already guaranteed rights, discrimination and failure of the State to protect family life of same-sex and unmarried partners.
- 20. Recommended question to be addressed by the Croatian government: Please indicate steps that the State Party will take to harmonize special laws with the already guaranteed protections of family life for same-sex partners in the Act on Life Partnerships of Persons of Same Sex and international obligations.**

Hate crimes against LGBT population

21. Chile during Cycle II recommended to Croatia to Strengthen the accountability and prosecution of law enforcement officers who commit abuses against lesbian, gay, bisexual and transgender persons and ethnic minorities.¹³
22. There are significant problems with implementation of the hate crime provisions in relation to violence against LGBT persons at all levels – the police (insulting victims, not taking complaints, being physically aggressive towards victims, violating privacy of victims), the state attorney (rejecting complaints without reasonable explanation) and the courts (violating victims rights, negative verdicts).
23. Lesbian Group Kontra provides direct legal help to LGBT victims of hate crimes since 2002. There is serious problem with underreporting due to lack of trust in the police and state institutions that is result of police misconduct and failure of state institutions to sanction hate crimes against LGBT persons. The problem is especially great in the region of Split and Dalmatia, where not a single case of violence against LGBT individual ended in criminal proceedings for hate crime and sanctions against the perpetrators.
24. Case *Beus v Croatia* regarding the failure of state institutions to sanction violence against gay activist from Split was communicated to the European Court of Human Rights in 2017. Out of 30 attacks that he reported in the period of two years to the police, only in one case of physical violence motivated by hatred, misdemeanor proceedings were initiated, and only one of six attackers was found guilty and ordered to apologize to victim, and not even that was properly implemented. Almost four years since the attack that was subject of the Application to the European Court of Human Rights in Case *Beus v Croatia*, and in which the Government of Croatia admits that it did not act in accordance with

¹² Zakon o izmjenama i dopunama Zakona o socijalnoj skrbi (Changes and Supplements to Social Care Act), Official Gazette No130/17, <https://www.zakon.hr/z/222/Zakon-o-socijalnoj-skrbi>

¹³ Report of the Working Group on the Universal Periodic Review A/HRC/30/14/Add.1 - Para. 99.111

the standards of the European Convention and the European Court of Human Rights, state bodies are still receiving warnings from the Ombudswoman for Gender Equality exactly in regards to the actions concerning the applicant. In her letter from March 16th 2018 the Ombudswoman cites the fact that after the applicant reported the incident from December 7th 2017 one of the police officers (Eugen Basić) suggested to the applicant «*that in his case this is not a criminal offence*» and because of that the Ombudswoman considered that «*this consideration of an official, to put it mildly, points to the lack of sensitivity of the police for victims of criminal offences, as well as to the prejudgement of the decision of the State Attorney's Office, and possibly to certain animosity towards persons of same-sex sexual orientation*»¹⁴. Besides that «*the Ombudswoman also emphasises as problematic the fact that it was not suggested in a single note that both cases might be hate crimes due to applicant's sexual orientation, and this was also not suggested in any way in special reports sent to the State Attorney's Office*». Cited warnings and recommendations of the Ombudswoman have meaning that the state bodies again did not conduct an efficient investigation and that police officers that discriminated a victim of hate crime and failed to act in his case were not sanctioned.¹⁵

25. In the case Klobučar v Croatia police officers were abusing lesbian woman for three years. She was continuously interrogated (for more than 12 hours in duration); police officers insulted her, sexually harassed her and threatened her, and denied her medication and she was subject to other actions under the excuse that the police are investigating a supposed crime committed more than 25 years ago. The case was reported to the State Attorney's office; criminal complaint was filed and it was reported to the Ministry of Interior, however since there were no adequate actions by state institutions, case was filed to the ECtHR and it was communicated to the European Court of Human rights in 2016. On 10 January 2018 (after the case was already communicated at the European Court of Human Rights and we were expecting positive decision against Croatia) the Constitutional Court adopted the decision¹⁶ that stated that her human rights were violated due to inefficient investigation into the abuse of police officers against our client. Adoption of this decision by the Constitutional Court stopped the proceedings in front of the European Court of Human Rights. This decision did not provide for compensation of non-pecuniary damages to the client, actually due to this decision she is not able to obtain the above compensation from the European Court of Human Rights. The decision itself also does not guarantee any sanctions against police officers that abused her. Due to decision investigatory actions against police officers were initiated in 2019 (!) and this resulted in 4 hours questioning of the victim by the police that additionally victimized her.

26. Recommended questions to be addressed by the Croatian government:

¹⁴ Letter of the Ombudswoman for Gender Equality from March 16 2018

¹⁵ European Court of Human Rights – communicated case Beus v Croatia
<https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22beus%22%2C%22documentcollectionid%22:%5B%22COMMUNICATEDCASES%22%2C%22itemid%22:%5B%22001-173349%22%5D%7D>

¹⁶ Case No at Constitutional Court: U-IIIBi-2349/2013

- **Please indicate steps that the State Party will take to prosecute law enforcement officers in above cases and other cases of violations of human rights of LGBT persons and failures to act upon reporting of hate crimes;**
- **Please indicate steps that the State Party will take to introduce systematic and obligatory education of the police, public prosecutors and judges at civil, criminal and misdemeanor courts in regards to cases of violence and discrimination based on sexual orientation and gender identity by experts from NGOs dealing specifically with these issues;**
- **Please indicate steps that the State Party will take to introduce funding of NGOs that provide support and legal help to victims of hate crimes and discrimination based on sexual orientation.**