



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	Slovenia
<b>Title:</b>	Constitutional Court allowed referendum on Act Amending the Marriage and Family Relations Act
<b>Date:</b>	9 December 2015
<b>Expert:</b>	Neža Kogovšek Šalamon
<b>Update of flash report nr:</b>	47-SI-ND
<b><u>Context</u></b>	
<b>Issue at stake:</b>	The Constitutional Court allowed referendum on amendments to Marriage and Family Relations Act that grant additional employment rights to same-sex couples
<b>Ground of discrimination:</b>	Sexual orientation
<b>Source:</b>	Legislation
<b>Field:</b>	Employment
<b>Applicable law:</b>	Act Amending the Marriage and Family Relations Act

### **Content**

**Law:** The Constitutional Court allowed a referendum in relation to the Act Amending the Marriage and Family Relations Act<sup>1</sup> which was passed by the National Assembly on 3 March 2015 but did not enter into force.

The main change that the Act would have brought was the legalisation of marriage for same-sex partners, aiming at eliminating systemic discrimination of same-sex couples, in line with non-discrimination provision of Article 14 of Slovenian Constitution. The amendments bring additional employment-related rights to same-sex couples (married and cohabiting) and address discrimination on the grounds of sexual orientation in the field of employment: the right to paid sick leave from work to care for a sick partner, the right to additional days of leave from work for a wedding, and the right of a cohabiting same-sex partner to obtain a survivor's pension that is based on contributions paid during the employment of the deceased partner (for married/registered same-sex partners survivor's pension is already provided for in the law). The law did not enter into force.

The conservative civil society coalition *It's about children!* (Za otroke gre!) collected the necessary 40.000 signatures required by Article 12 of the Popular Initiative and Referendum Act<sup>2</sup> and filed a claim for referendum. On 26 March the National Assembly rejected the claim for referendum based on Article 90 (2) of the Constitution that prohibits referendums on laws revising provisions which are not in line with the

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<sup>1</sup> Zakon o spremembah in dopolnitvah Zakona o zakonski zvezi in družinskih razmerjih, EPA 257/VII (draft law), available at <http://imss.dz-rs.si/imis/4c9d4b6c7a20845698d5.pdf>.

<sup>2</sup> Zakon o referendumu in o ljudski iniciativi – uradno prečiščeno besedilo, Official Gazette No 26/07.

constitution in the field of human rights and fundamental freedoms or other unconstitutionality.

The stated, a civil society coalition lodged a constitutional complaint against the decision of the National Assembly. On 22 October 2015 the Constitutional Court annulled the decision of the National Assembly and allowed the referendum, which will take place on 20 December 2015.

The referendum will be the second referendum on this issue since 2012. If the amendments are rejected at the referendum, this will not only postpone the introduction of same-sex marriages, but will also mean that a number of employment related rights will continue to be unavailable to both registered and cohabiting same-sex partners.

**Key points of analysis:** If the amendments are rejected at the referendum, this will not only postpone the introduction of same-sex marriages, but will also mean that a number of employment related rights will continue to be unavailable to both registered and cohabiting same-sex partners.

**Internet link source:**

<http://odlocitve.us-rs.si/sl/odlocitev/US30753?q=novela+zakona+o+zakonski+zvezi&vd=U-II>;  
<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7083>;

Both last accessed 8/12/2015.