

Advancing LGBTI Equality in the EU: from 2020 and beyond

Conference Report

On 23 and 24 September 2019, the Finnish Presidency of the Council of the European Union and the European Commission hosted the [High-Level Conference on Advancing LGBTI Equality in the EU: from 2020 and beyond](#). The purpose of the event was to take stock of the achievements so far and to discuss how to advance LGBTI equality in the years to come. **A key outcome of the speeches, panel discussions and workshops was a clear agreement among many conference participants about the need for a European Commission strategy to advance LGBTI equality.**

The event brought together over 400 participants from across Europe and the world. Participants included Ministers, State Secretaries, political representatives of the European Commission and the European Parliament, the European Union Agency for Fundamental Rights, LGBTI civil society organisations, equality bodies, and academics. It provided an opportunity to evaluate the Commission's [List of actions to advance LGBTI equality](#) four years after it was presented. In addition, the conference sought to build on the December 2018 [Joint Non-Paper on the future of the List of actions](#), presented by 19 Member States, and the February 2019 European Parliament, which called for a [new strategic document to foster equality for LGBTI people](#).

The first day consisted of interactive panel discussions on the challenges facing LGBTI people in the EU and on how LGBTI equality can be advanced. The second day included eight in-depth workshops, with the aim of putting forward policy recommendations and actions that can be implemented by the Commission, Member States and other stakeholders. Context was provided by a presentation of findings from the [latest Eurobarometer survey on discrimination](#). The results showed that, while 76% of respondents say LGB people should enjoy the same rights as heterosexual people, in 13 out of 28 countries, **a third or more of respondents say that they do not agree they should enjoy the same rights**. In a few countries, this constituted a majority of respondents.

Thomas Blomqvist, Finnish Minister for Nordic Cooperation and Equality, stressed that LGBTI rights are fundamental rights. *“Human dignity, freedom, democracy, the rule of law and equal rights must be respected if the EU is to function and maintain credibility,”* he said. *“Work remains to be done but as a union we are equipped to rise to the challenge.”*

Věra Jourová, Commissioner for Justice, Consumers and Gender Equality, who presented the List of actions to advance LGBTI equality in 2015, stated that it was important not only to reflect on what we have achieved, but also to look to the future. She warned that hatred

against the LGBTI community was being exported into Europe, fuelled by old biases and the fear of losing traditional values. Commissioner Jourova highlighted key features of the list of actions, which according to her are essential to advancing LGBTI equality, also in the future. She stressed in particular the importance of ensuring legal protection, campaigning against prejudices, empowering equality bodies, using a smart combination of tools and working with relevant stakeholders. Finally, she referred to the political guidelines of President-elect Ursula von der Leyen stating that ***“we should aspire to live in a society where people can be who they want, and love who they want”***.

Ingrid van Engelshoven, Dutch Minister for Education, Culture and Science, discussed Europe's commitment to fundamental rights, the achievements that have been made and the challenges ahead. *“We need to keep fighting against injustice and have a clear idea of where we want to go,” she said.* Van Engelshoven called for the **harmonisation at the European level of protection against all forms of discrimination**.

Panel 1: What challenges and discrimination do LGBTI people face in the EU?

There was agreement that legislation is critical to tackling discrimination and fostering the social acceptance of LGBTI people. **Edward Zammit Lewis, Minister for European Affairs and Equality in Malta** discussed his country's recent proposals to establish equality as a human right, and for a human rights and equalities commission to promote and enforce equality.

Terry Reintke, German Greens/EFA MEP and Interim Co-President of the LGBTI Intergroup of the European Parliament, underlined the important impact of legislation on people's attitudes and the need to link LGBTI and fundamental rights with the struggle for the rule of law.

Michael O'Flaherty, Director of the European Union Agency for Fundamental Rights (FRA), pointed to the fact that while many people say they are in favour of equal rights, they also do not want their child to be in an LGBTI relationship. *“This shows the shallowness of acceptance and the deep underlying prejudice,”* he said. He further announced that the upcoming [FRA survey](#) will bring more evidence about the experiences of LGBTI people on the ground.

On behalf of civil society, **Dan Christian Ghattas, Executive Director of OII Europe (Organisation Intersex International Europe)**, said that he was not surprised to see the

results of the 2019 Eurobarometer, which demonstrate that intersex people are among the most marginalised groups in society. Ghattas gave several examples of how the EU can support the Member States and intersex civil society groups, including funding, further research on the legal position of intersex people, organising best practice exchanges and seminars (for instance, on how to prohibit non-consensual medical interventions), and improved data collection.

Teodora Roseti-Ion-Rotaru, Executive Director of ACCEPT Romania, emphasised the challenges facing LGBTI communities due to a **lack of legal harmonisation across Europe**. Romania for example does not recognise any form of civil union between people of the same sex. This creates problems for LGBTI people, **especially for those who live and work across borders**.

Evelyne Paradis, Executive Director of ILGA Europe, echoed this point about the precarious legal situation of many Rainbow families. She also stressed that, amid a political climate wherein LGBTI are used as scapegoats and social divisions are becoming more firmly entrenched, **an ambitious EU LGBTI strategy is crucial**. Paradis underscored that such a strategy matters to everyone, since **“social cohesion and inclusion are at stake”**, and that a clear majority of both the Member States and the citizens are in favour.

Panel 2: How can we advance LGBTI equality in the EU?

The second panel agreed that a strong commitment to LGBTI equality at the European level was needed and called for more support for civil society organisations. **Violeta Tomić, Slovenian member of the European Left in the Parliamentary Assembly of the Council of Europe and General Rapporteur on the rights of LGBTI people**, said that the EU must find new ways of responding to the well-funded anti-LGBTI movement. She further mentioned the Irish marriage referendum campaign as a successful example of countering negative narratives.

To **Roberta Metsola, MEP from Malta**, who was **EPP** rapporteur on Ulrike Lunacek's Roadmap against homophobia, the fact that discrimination remains widespread shows that proper implementation of legal and policy measures, such as the List of actions to advance LGBTI equality, as well as relevant national laws, is imperative. She called for an amplification of the European Parliament's rule of law working group and voiced concerns about how difficult it is to apply for EU funding. Metsola credited the Finnish Presidency for taking up this subject so visibly.

Jovana Trenevaska, State Secretary of North Macedonia, mentioned the experience from North Macedonia where the government speaks up for LGBTI equality and referred to a newly adopted anti-discrimination law.

Slava Melnyk, Managing Director of Campaign Against Homophobia (Poland) and **Ari Kajtezovic of Transgender Europe**, discussed the challenges facing LGBTI people across Europe. *“In a climate where there are anti-LGBTI stickers and banned Pride marches, more needs to be done,”* said Melnyk, who called for more targeted funding. Kajtezovic said that activism can feel like a warzone at times, and that there was a need to recognise the seriousness of the situation. *“We need a comprehensive EU strategy that has LGBTI people and their defenders at its core.”*

Ulrike Lunacek, former Austrian MEP (2009-2017) for the Greens/EFA, who was the Rapporteur of the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity, provided the concluding remarks to close the first day. *“We have come a long way,”* she said. *“Much has been achieved, though we are currently seeing a backlash. Fear is the worst advisor for everything. If you are afraid, you cannot live your life. This is why **the LGBTI community needs to continue to claim public space and be part of society.** We are not going to let anyone push us back into the closet.”* Lunacek called on the Commission to prepare an inclusive, comprehensive and intersectional LGBTI strategy, and on supportive Member States to rally others to join forces.

Workshops

Tiina Astola, Director-General for Justice and Consumers of the European Commission opened the second day of the conference and underlined in particular that the Commission is aware of the backlash against LGBTI equality and that action must be taken to counter it. The discussions then continued in **eight workshops** to generate ideas on specific topics relevant for LGBTI people, which the European Commission and Member States could use to develop future policies to advance LGBTI equality.

→ Hate crime and hate speech against LGBTI people

Under-reporting, as well as the impunity of certain perpetrators due to an absence of strong legislation, present challenges to tackling hate crimes and hate speech against LGBTI people. It is crucial that victims of LGBTI-phobic hate speech and hate crime receive the necessary support and see that law enforcement responds effectively.

Better information-gathering on hate crimes and hate speech can lead to more strategic and targeted hate crime monitoring. In this respect, more attention should be given to actors such as political and religious leaders, and to social media platforms, who should continue to be encouraged to remove hate speech, as this can be more efficient in some cases than going through the courts. Nevertheless, more should also be done to address **how social media platforms monetise hate speech.**

LGBTI sensitivity training courses for police officers can increase understanding on the impact of hate crime and hate speech, and the sharing of good practices between national police forces can be valuable. There have been positive experiences of LGBTI activists working within police forces. In addition, family mediation or restorative justice could be a useful tool, because some victims of LGBTI-related crimes do not feel safe to come forward.

Surveys show that LGBTI awareness-raising campaigns should be developed, **encouraging witnesses to react and building empathy for victims.** To build on this, more guidance should be available to media actors on how to report on hate crime and hate speech, as well as on shaping positive narratives and countering the spread of hateful rhetoric.

→ Intersectionality and multiple discrimination

Intersectionality is not a static concept but an ongoing project. It has contributed to a **growing understanding that public policies that force people to choose specific grounds for discrimination can be divisive.** Nonetheless, more data and research are needed to map LGBTI people's multiple and intersectional experiences of discrimination, because data collection currently still focusses primarily on individual grounds of discrimination without showing the diversity within each ground.

Intersectionality is not just about individuals with multiple identities, but focusses on systems of oppression and injustice. In practice, to address such systems, policy makers should stop compartmentalising people and instead try to build bridges between policy areas. Observing intersectionality also requires not to frame homophobia, exclusion or racism as merely individual issues but to **tackle the institutional factors.** States should therefore look to change their structures in order to better prevent discrimination of LGBTI people from an intersectional perspective.

NGOs can also exist in siloes, which is why collaborations and **broader alliance building** between LGBTI groups and other civil society groups should be encouraged. Progressive

spaces are needed to help identify these possible collaborations. Longer-term operational funding to tackle intersectional issues could provide a significant boost in this regard.

Alternative narratives should be developed to challenge patriarchy and homophobia inherent in many religious communities and traditional societies. At the same time, to avoid marginalising religious groups, it is important to focus on combatting homophobia and hatred, not religion itself. LGBTI members of religious groups must feel safe.

→ The discrimination of transgender and intersex people

Unnecessary medical interventions, a continued lack of consistency when it comes to legal gender recognition procedures and a lack of access to well-trained and well-informed medical staff remain major obstacles for both intersex and transgender people across Europe. Systemic discrimination persists in areas such as employment, housing and education, as well as health.

Transgender people living in countries that developed action plans and equality policies often feel safer to express their gender identity. It is notable that countries with good practices on legal gender recognition, such as having no medical requirements, have experienced an increase in applications. To take the equality of intersex people forward, **a ban on unnecessary operations carried out on intersex children is needed.** Policy makers must also engage more with governments hostile to LGBTI equality, and pull support for projects run by organisations hostile to transgender and intersex people.

Any ban on unnecessary surgeries on intersex children must be accompanied by **information for health professionals, the general population and schools.** To ensure the well-being of transgender persons, **access to well-equipped, trained health staff remains crucial.** However, addressing trans people by their correct name already has a positive impact on their well-being. Transgender and intersex issues are too often seen as a minor problem and awareness must be raised in particular as regards public authorities and relevant public officials.

Creating space for dialogue is crucial. In many regions of Europe, the space for trans and intersex people to exist and for people to express themselves outside of the gender binary has shrunk. This underlines that while the European context is important, **action at the local level is critical.** Successful awareness raising campaigns have shown that information on trans and intersex people can be well received, and may nurture empathy and understanding.

→ **LGBTI Human Rights in enlargement, neighbourhood and third countries**

Many LGBTI people are the target of violence and harassment in third countries. The picture is complicated by the fact that national contexts vary significantly. While some groups are fighting for equal marriage, others are fighting for decriminalisation and anti-discrimination legislation. Space for LGBTI civil society organisations is also shrinking, and funding application processes can be complex and lengthy. In some instances, EU support for LGBTI communities has been used by opponents as evidence of an imposed western agenda.

For the EU to continue to play a critical role in supporting civil society and governments in enlargement, neighbourhood and third countries, **greater funding flexibility is needed**. Grassroots organisations can find it very difficult to become legally constituted in places where LGBTI rights are limited, and to this end, **it is important funding is available for non-registered organisations in certain instances**.

Exerting pressure to change restrictive laws is not enough on its own, however. Social attitudes need to change as well. Continued EU support for cross-border civil society networks is critical in this respect, though sensitivity to social attitudes on the ground must be considered. **Working with civil society groups on the ground is critical to finding the most appropriate forms of intervention**.

The EU is currently discussing the Multiannual Financial Framework for 2021-27, which presents an opportunity to increase the human rights and democracy budget. Civil society should be involved in discussions about funding processes, and maintain pressure on policy makers to **ensure that human rights in enlargement, neighbourhood and third countries remains on the agenda**.

→ **LGBTI people and their families in cross-border situations**

LGBTI families crossing borders in the EU experience difficulties in having their family ties recognised, including when such ties have already been legally established elsewhere. Same-sex couples may lose the legal recognition of their relationship when moving to certain Member States. Transgender persons can fall victim to all sorts of legal difficulties due to the differences in legal gender recognition procedures between the Member States. Children are sometimes discriminated against due to the sexual orientation of their parents, for instance, because a birth certificate listing two mothers is not recognised abroad.

In order to address these issues, the current proposed **Equal Treatment Directive should remain a top priority** for the Commission, while the Services Directive could be improved by adding sexual orientation as grounds for discrimination. **Implementing and monitoring the**

Free Movement Directive with regards to Rainbow families is crucial, as well as ensuring respect for the fundamental rights of children.

Harmonisation of the recognition across all Member States of all marriage certificates, registered partnership certificates, birth certificates and gender recognition certificates would help to remedy some of the obstacles LGBTI families experience when exercising their free movement rights. In addition, **strategic litigation** may also contribute to ensuring equal treatment for Rainbow families.

In order to strengthen the policy-making process, EU-funded research should be directed at **understanding how the legal recognition of LGBTI family relations is applied in cross-border situations** under the existing legal framework, including, for instance, private international law. This could help in identifying obstacles in the actual implementation of legislation. Similarly, **better training for civil servants** may be needed to guarantee that relevant legislation and case law such as the Coman case are observed by local authorities.

→ **The status of LGBTI civil society organisations in the EU**

Many LGBTI civil society organisations are finding it increasingly hard to become professionalised, while some governments no longer see them as partners. There have been an increasing number of attacks from extreme groups, while external funding for anti-LGBTI groups has contributed to the undermining of European values.

In many countries national funding is shrinking, which makes **EU-level support all the more vital**. Certain LGBTI civil society organisations, such as those working in the area of intersex equality, may benefit less of the available funding. The Commission should continue to work with the European Governmental LGBTI Focal Points Network, while the European Parliament's LGBTI Intergroup continues to push LGBTI issues onto the policy-making agenda.

There is a clear **need for core, stable and long-term funding** for LGBTI civil society groups. One-off project funding can mean that results are hard to sustain. This is important not least to **counter anti-LGBTI narratives coming from well-resourced political and religious organisations**, as well as to push against discriminatory legislation. There should therefore be greater flexibility in where and how money can be spent. EU funding should also be rendered more accessible, as current application procedures are often found to be overly complex.

Any European strategy for LGBTI equality **must acknowledge the different political situations and cultural contexts in Member States**. Civil society groups can play a key role

here by talking with undecided people on the ground, to explain for example the impact of legalising same-sex marriage.

→ **Challenges to LGBTI equality in education, health and employment**

Many LGBTI people are discriminated against in education, when looking for work or while accessing health services. Young people especially can find themselves without a voice, having to rely on adults to lodge complaints and to generally make themselves heard. As a result, many aspects of discrimination go unreported.

Ensuring legal protection against discrimination, including in the area of health and education, should remain a priority. Despite the EU's limited competences, **education and health-related issues must be discussed at the EU level**. New measures are required to achieve minimum standards on legal gender recognition. Even in the area of **employment**, where strong legal protection exists under the Employment Equality Directive, discrimination continues to occur. Existing legislation must be properly implemented, and more should be done to foster diversity in the workplace, including by visibly practising inclusion – in which public institutions should take the lead. External assessments of transgender discrimination within government structures have been shown to be an **effective way of identifying structural discrimination**, leading to recommendations and actions.

Governments have signed pledges on inclusive education, and the extent of implementation at the national level should be measured. **National governments need to develop intersectional strategies for education, including the training of school staff, with follow-up actions**. How educational material deals with sexual orientation and gender identity should be reviewed, and government best practices in education, but also in health and at work, should be shared. Bringing various departments from Member States together encourages the sharing of ideas and avoids siloes. At the same time, the effects of the anti-gender movement must be analysed.

Directive 2011/24/EU on patients' rights in cross-border healthcare should be reformed or amended to refer to the needs of transgender people. **Attention should be paid to trans sex workers** for who access to healthcare can be very difficult. Gender-neutral recruitment and changes to hospitalisation insurance are other examples of how institutional structures can change. Trade Unions can be important allies in ensuring LGBTI visibility in the workplace.

→ Safeguarding the rights of LGBTI asylum seekers

A considerable number of people who travel to the EU seeking international protection are LGBTI. Credibility assessments remain a key challenge when it comes to safeguarding the rights of LGBTI asylum seekers, because they often pander to stereotypes. The concept of “coming out” does not exist in every society, and not all countries on the Safe Country list are safe for LGBTI people. Without the right to work, asylum seekers awaiting status determination are especially vulnerable.

Harmonising the Common European Asylum System insofar as it deals with applicants with special needs, including of LGBTI people, should be stepped up. More specifically, **translators** should be trained to identify and avoid stigmatising language, and **accommodation conditions** should adequately address the vulnerable position of LGBTI asylum seekers. Mandatory presence of **LGBTI experts** and **trauma specialists** during application interviews should also be considered, for many LGBTI asylum seekers have experienced real hardship, including rape and forced marriage.

The existing legal framework necessitates proper **enforcement**. When EU asylum rules are not being properly implemented, infringement procedures and strategic litigation processes should be considered. In addition, **EU funding** programmes must be rendered more accessible, as stakeholders who develop or wish to develop projects to support LGBTI asylum seekers experience difficulties in the application process.

Ways forward

Czeslaw Walek, Founder and Chairman of Prague Pride in the Czech Republic, referred to the Eurobarometer results, which indicate that a significant part of the population does not think LGBTI should be entitled to the same rights. According to Walek, our work in the coming years should focus on uniting against the growing opposition.

Thomas Blomqvist, Minister for Nordic Cooperation and Equality in Finland, stressed that discussions in this conference demonstrated significant differences across countries. He further underlined the importance of civil society and the cooperation between civil society and national authorities.

Anna Robinson of IGLYO drew attention to the warnings raised throughout the conference of the regression being recorded in the EU in terms of LGBTI equality. According to Robinson, this shows that we need to do more. She also reiterated the call from several

conference participants for future policies to be intersectional and for funding to be more accessible, flexible and long-term.

Irena Moozová, Director for Equality and Union Citizenship at the European Commission concluded that while *“many things have been achieved – such as the List of Actions – there is room for improvement”*. The Commission has received a strong call from the Member States, the European Parliament and civil society to prepare a **robust instrument to further advance LGBTI equality** that could focus on the areas the workshops discussed and take on suggestions from civil society and academia. She further noted that the upcoming Multiannual Financial Framework could present an opportunity to reflect calls for more flexible funding in this area.

The results of the 2019 Eurobarometer on discrimination in the EU and the second FRA LGBTI survey, which is expected in the first half of 2020, will provide an up-to-date picture of the situation of LGBTI people in the EU and also an **important guidance on how to further advance LGBTI equality in the years to come.**

