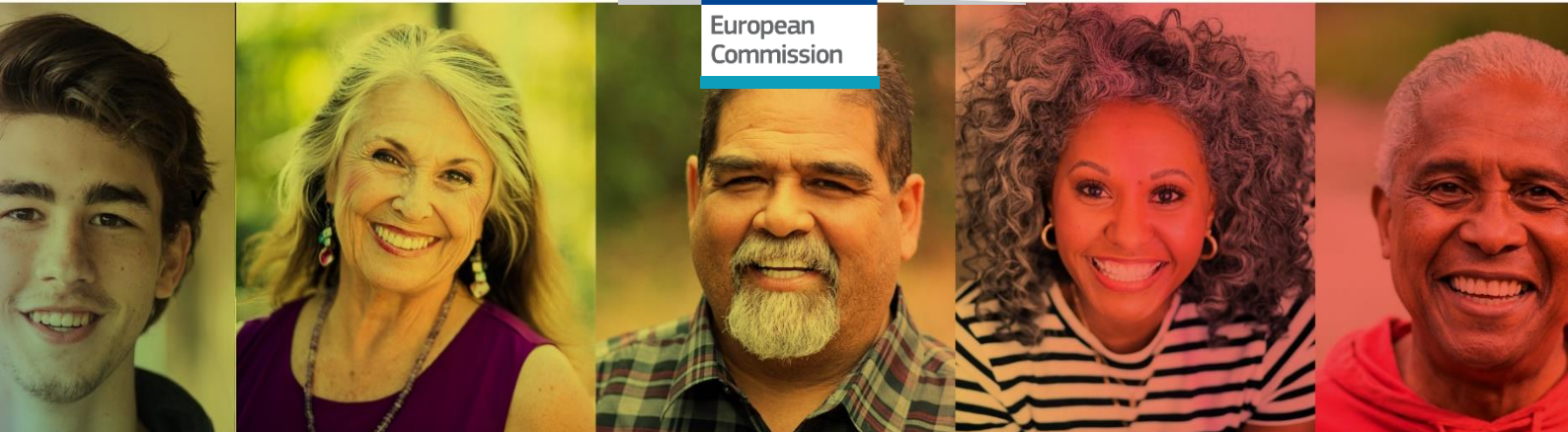




European
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Guidelines for Strategies and Action Plans to Enhance LGBTIQ Equality

High-Level Group on non-discrimination, equality and diversity

LGBTIQ Equality Subgroup



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and Consumers

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Guidelines for Strategies and Action Plans to Enhance LGBTIQ Equality

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FOREWORD

I congratulate the Member States' experts for the preparation and endorsement of the *Guidelines for Strategies and Action Plans to Enhance LGBTIQ Equality*.

These Guidelines, prepared by the LGBTIQ Equality subgroup under the High-Level Group on Non-Discrimination, Equality and Diversity, are a milestone in the protection and promotion of the rights of LGBTIQ people in the EU.

They aim at supporting Member States efforts to affirm LGBTIQ equality in a strategic and evidence-based manner.

The Guidelines provide a comprehensive tool for policy-makers and authorities, and focus on defined and implementable steps and measures.

These Guidelines are a Member States' response to both the calls included in the EU *LGBTIQ Equality Strategy* and to the needs identified at the national level in conjunction with civil society organisations that are actively working to promote equality for all.

I invite all interested parties, including, governments and administrations at all levels, political parties, civil society organisations, companies, trade unions, international organisations, academia and citizens to do their part to affirm the rights of LGBTIQ people as a common front.

The protection and promotion of equality and human rights is our common value as well as our common task and responsibility.

Together, in our diversity, we are stronger, more effective and prouder.



Helena Dalli

European Commissioner for Equality

Guidelines for Strategies and Action Plans to Enhance LGBTIQ Equality

LGBTIQ EQUALITY SUBGROUP

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1. BACKGROUND

Equality and non-discrimination are fundamental values enshrined in EU primary law¹. Article 21 of the Charter of Fundamental Rights of the European Union explicitly prohibits discrimination based on sexual orientation and sex. More specifically, EU law provides for a right not to be discriminated against, nor be subjected to harassment, based, amongst others, on sexual orientation and sex in the area of employment and occupation.² In addition, discrimination based on sex is prohibited in the fields of access to and supply of goods and services and social security.³ Discrimination based on gender reassignment is prohibited under the sex equality directives.^{4 5}

During the recent years, the European Union and its Member States have realised considerable progress in advancing the rights of LGBTIQ people⁶. The overall situation of LGBTIQ people has improved and their social acceptance has increased. According to a Eurobarometer from 2019, three quarters of EU citizens consider that LGBTI people should have equal rights to heterosexual people.⁷ The trend is upward.

However, as EU's ministerial debates, observations of authorities from many Member States, findings of EU Agency for Fundamental Rights, Eurobarometer surveys, conclusions of European Network of Legal Experts and work of European Network of Equality Bodies, and also the case law of the European Court of Justice and reports from civil society⁸ all similarly show, discrimination against LGBTI people is still widely experienced in the European Union.⁹ LGBTI people are more often victims of violence, harassment and hate speech than

¹ See in particular Article 2 of the Treaty on European Union.

² Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation OJ L 303, of 02/12/2000, 16. Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), OJ L 204, of 26/7/2006, 23.

³ Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services, OJ L 373, of 21/12/2004, 37. Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security, OJ L 6, 10.1.1979, 24–25.

⁴ Court of Justice of the European Union. See for example, Cases C-13/94 P v S and Cornwall County Council, 30 April 1996 and C-423/04, Richards v Secretary for Work and Pensions, 27 April 2006.

⁵ Directive 2006/54/EC of the European Parliament and the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)

⁶ LGBTIQ people are people:

- who are attracted to others of their own gender (lesbian, gay) or any gender (bisexual);
- whose gender identity and/or expression does not correspond to the sex they were assigned at birth (trans, non-binary);
- who are born with sex characteristics that do not fit the typical definition of male or female (intersex); and
- whose identity does not fit into a binary classification of sexuality and/or gender (queer).

⁷ Special Eurobarometer 493: Discrimination in the European Union, October 2019.

⁸ See for example: Ilga Europe Rainbow <https://www.ilga-europe.org/rainboweurope>, TGEU Trans Right Map <https://tgeu.org/trans-rights-map-2021/>, EL*C report "Lesbophobia: an intersectional form of violence" <https://europeanlesbianconference.org/wp-content/uploads/2021/10/Lesbophobia-3.pdf>, OII good practice map: <https://oii.europe.org/good-practice-map-2020/> and IGLYO's LGBTIQ Inclusive Education Index & Report: <https://www.education-index.org/download-report/>

⁹ For further and more detailed information see for example EU *LGBTI Surveys 2012 and 2019* by the European Union Agency for Fundamental Rights as well as its 2019 Fundamental Rights Survey on the general population, *Special Eurobarometer 493: Discrimination in the EU*, Employment, Social Policy, Health and Consumer Affairs Council (Employment and social policy), 24/10/2019 - Consilium (europa.eu) and Informal video conference of employment and social policy ministers, 15/03/2021 - Consilium (europa.eu), Publications – Equinet

the general population on average. Discrimination and inappropriate behaviour and treatment against LGBTIQ people are experienced in access to and at workplaces, in education, in public spaces, online, in access to services, at home and within families.

In order to address the prevailing situation in a determined way, the European Commission has made advancing towards a Union of equality a priority under President Ursula von der Leyen's leadership. In a Union of equality, all citizens, in their diversity, are free to pursue their life as they choose and wish.

To implement the initiative, the Commission adopted EU's first ever *LGBTIQ Equality Strategy* on 12 November 2020¹⁰. The Strategy sets out a series of targeted actions to mainstream LGBTIQ equality into all policy areas. It builds on the *List of Actions to Advance LGBTI Equality*¹¹ presented by the Commission in 2015.

2. GUIDELINES TO ENHANCE LGBTIQ EQUALITY

The LGBTIQ Equality Subgroup was set up for enhancing implementation of the LGBTIQ Equality Strategy under the High-Level Group on non-discrimination, equality and diversity. The Subgroup is composed of Governmental experts, nominated by Member States' Governments, to support and monitor progress of the protection of LGBTIQ people's rights in the Member States. The EU Agency for Fundamental Rights (FRA) contributes to its work, and the Subgroup cooperates on a regular basis with civil society and international organisations, such as the Organisation for Economic Cooperation and Development (OECD) and the Council of Europe.

The Subgroup started its work in May 2021. In line with the LGBTIQ Equality Strategy, the Subgroup has identified the work to support planning, preparing and implementing LGBTIQ strategies and action plans as its top priority. The LGBTIQ Equality Strategy encourages the Member States to develop national action plans on LGBTIQ equality. Research suggests that the development and adoption of such action plans do matter in promotion of LGBTIQ equality.¹²

The main aim of these guidelines is to support strengthening and systematising concrete action to enhance protection of the rights of LGBTIQ people. The guidelines identify what LGBTIQ policies, strategies and action plans should cover to be useful and effective. The guidelines support and encourage the Member States in line with the LGBTIQ Equality Strategy, as advised, prioritised and agreed by the Subgroup.

As the LGBTIQ situations, legal frameworks and administrative structures of the Member States are very different from each other, the guidelines focus on dimensions that are valuable, useful and important in different national contexts, in the EU and beyond.

(equineteurope.org), Thematic reports - European Equality Law Network, [DG Democracy](http://DG.Democracy) and its fields of action (coe.int).

¹⁰ [LGBTIQ Equality Strategy 2020-2025 | European Commission \(europa.eu\)](https://european-council.europa.eu/media/en/press-room/pages/press-room.aspx?ID=12345).

¹¹ European Commission, Final Report 2015-2019 on the List of actions to advance LGBTI equality (15 May 2020).

¹² See, in particular, OECD, *Over the Rainbow? The Road to LGBTI Inclusion* (2020) [Over the Rainbow? The Road to LGBTI Inclusion | en | OECD](https://www.oecd.org/overtherainbow/)

The guidelines draw from the inputs of the LGBTIQ Equality Subgroup but also from existing action plans covering LGBTIQ protection adopted in *Croatia, Denmark, Estonia, France, Greece, Ireland, Lithuania, Luxemburg, Malta, Norway and Sweden*.¹³ The publication *National Action Plans as Effective Tools to Promote and Protect the Human Rights of the LGBTI People* by the Council of Europe¹⁴ and the publications *Society at Glance*¹⁵ and *Over the Rainbow* by the OECD have been valuable sources of inspiration for drafting and adopting the guidelines too.

Based on existing data, experience and in-depth discussions within the Subgroup, it has been concluded that, in order to ensure protection of LGBTIQ people's rights effectively, LGBTIQ policies, strategies and/or action plans should cover and address appropriately the following dimensions:

- (1) Ensuring an accurate assessment of LGBTIQ equality situation in support of evidence-based policy-making
- (2) Identifying main challenges of LGBTIQ equality, paying attention to the situation of the most vulnerable
- (3) Setting clear, ambitious and measurable priorities for promoting LGBTIQ equality and awareness raising
- (4) Ensuring effective legal protection of LGBTIQ people and proper law enforcement
- (5) Transparent management, leadership and co-ordination of LGBTIQ equality matters, including mainstreaming and active involvement of civil society

¹³ National Action Plans:

Denmark: https://bm.dk/media/17143/153842_lgbti_handlingsplan_uk.pdf ;

France: <https://www.gouvernement.fr/plan-national-d-actions-pour-l-egalite-contre-la-haine-et-les-discriminations-anti-lgbt-2020-2023>

Lithuania: Plan for Non-discrimination 2021-2023:

<https://www.e-tar.lt/portal/lt/legalAct/b1c5e3b03ae511eb8d9fe110e148c770>

Social inclusion development program 2021-2030:

<https://www.e-tar.lt/portal/lt/legalAct/dd582180438311ec992fe4cdfceb5666>

National Progress Plan 2021-2030 (through the horizontal principle of equal opportunities):

<https://www.e-tar.lt/portal/lt/legalAct/d492e050f7dd11eaa12ad7c04a383ca0/asr>

Luxemburg: [Plan d'action national pour la promotion des droits des personnes lesbiennes, gays, bisexuelles, transgenres et intersexes - Ministère de la Famille, de l'Intégration et à la Grande Région // Le gouvernement luxembourgeois](#)

Malta :

<https://humanrights.gov.mt/en/Documents/Publications/LGBTIQ%20Equality%20Strategy%20and%20Action%20Plan%202018%20-%202022.pdf> ;

Sweden: [action-plan-for-equal-rights-and-opportunities-for-lgbtiq-people.pdf \(government.se\)](#) ;

¹⁴ [168066d620 \(coe.int\)](#)

¹⁵ [soc_glance-2019-en.pdf \(oecd-ilibrary.org\)](#)

(6) Monitoring and evaluation of the implementation of measures to safeguard and promote improve LGBTIQ equality

For all those dimensions, these guidelines explain one by one

- i) why covering them is important (= *relevance*);
- ii) what should be concretely considered (= *counselling*); and
- iii) how Member States have concretely resolved these matters (= *good practices*);

Concerning good practices, it is to be noted that, although they may not be comprehensively presented in this document, some exist in all the Member States, as do challenges to ensure the full respect of the rights of LGBTIQ people too.

3. GUIDANCE

3.1. Ensuring an accurate assessment of LGBTIQ equality situation in support of evidence based policy-making

a. Relevance

It is important to have an empirically accurate, reliable and precise picture of the inclusion of LGBTIQ people in society. The fact-based observation of the situation helps to trace both successes and potential gaps in protection. A proper overview lays the foundation for effective actions and measures to improve the situation where needed. This requests the availability and regular collection of segregated equality data¹⁶. Fact-based communication may contribute to improve the social acceptance of LGBTIQ people.

b. Counselling

To ensure evidence-based policy-making on LGBTIQ equality, it is important to map out the following areas:

- The state of social inclusion and integration of LGBTIQ people, including access to and integration in labour market, education, access to services and health care and of prevailing attitudes towards LGBTIQ people

¹⁶ [Equality data is defined as any piece of information that is useful for the purposes of describing and analysing the state of equality. See: European Commission \(2016\), European Handbook on Equality Data – 2016 Revision, Luxembourg, Publications Office.](#)

- The special situation of the most vulnerable LGBTIQ people, namely trans and intersex people and those in intersectional situation¹⁷, keeping in mind specific situation of LGBTIQ women, LGBTIQ youth and LGBTIQ people with disabilities
- Possible differences in the LGBTIQ equality situation across the country including between regions, municipalities, countryside and cities
- National situation in relation and in comparison to peer countries, namely other EU Member States and OECD and Council of Europe countries, based for example on data and information from the OECD, European Governmental LGBTI Focal Points Network, EU institutions and agencies, notably special Eurobarometer surveys, FRA's EU LGBTI Surveys (2012; 2019 and 2023)¹⁸ as well as its 2019 Fundamental Rights Survey on the general population, and rainbow index by ILGA-Europe, Trans Rights Map by TGEU, reports on LGBTIQ women by EL*C, good practice map by OII Europe and LGBTIQ Inclusive Education Index by IGLYO
- Impact of Covid-19 pandemic on LGBTIQ people, including parameters and empirical basis used to assess the situation, and measures taken by competent authorities and other stakeholders to address eventual related challenges
- Availability of adequate segregated equality data¹⁹, indicators and sources used in assessing the LGBTIQ equality situation, via data collection and analysis on LGBTI people, including youth, by means of (1) performing targeted surveys; or (2) including questions about being LGBTI in existing surveys (in labour force surveys, etc.), using methods to draw general, macro level conclusions from self-reported experience and perception based micro data, and drawing from existing data collection and analysis tools such as the sound and robust methodology and results of the EU LGBTI Survey by FRA, the Survey Data explorer²⁰ and its microdata in the public domain²¹, as well as the expertise and the tools issued by the Subgroup on equality data and fostering the exchange of promising practices among Member States under this framework

¹⁷The EU strategy is uses intersectionality as a cross-cutting principle: sexual orientation, gender identity/expression and/or sex characteristics will be considered alongside other personal characteristics or identities, such as sex, racial/ethnic origin, religion/belief, disability and age. This principle serves to explain the role that intersections play in individuals' experiences of discrimination and vulnerability.

¹⁸ EU LGBTI Survey II (2019) <https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results>

EU LGBT Survey I (2012) <https://fra.europa.eu/en/publication/2014/eu-lgbti-survey-european-union-lesbian-gay-bisexual-and-transgender-survey-main>

Being trans in the EU (2014): <https://fra.europa.eu/en/publication/2014/being-trans-eu-comparative-analysis-eu-lgbti-survey-data>

Professionally speaking: challenges to achieving equality for LGBT people (2016) <https://fra.europa.eu/en/publication/2016/professionally-speaking-challenges-achieving-equality-lgbt-people>

Fundamental Rights Survey (2015) (<https://fra.europa.eu/en/project/2015/fundamental-rights-survey>)

¹⁹ [Notably disaggregated data from official statistics, academic research, complains data and qualitative and quantitative research studies.](#)

²⁰ The FRA LGBTI survey data explorer: <https://fra.europa.eu/en/data-and-maps/2020/lgbti-survey-data-explorer>. When using these tools, it is important to note that certain groups of LGBTIQ people may be under-represented and that appropriate action is needed to fill in gaps.

²¹ https://search.gesis.org/research_data/ZA7604

- Need to respect the human rights principles on data collection i.e. participation, self-identification, data disaggregation, transparency, privacy and accountability in reference to *the EU Guidelines on improving the collection and use of equality data*²² and the upcoming guidance on the collection and use of equality data on LGBTIQ people, as agreed and developed within the Subgroup on equality data²³
- Distribution and dissemination of factual information and awareness raising on the state of LGBTIQ equality and LGBTIQ rights
- Diversity of LGBTIQ people, overcoming stereotypes, and specific national contexts, including when preparing and running awareness raising campaigns

c. Good practices from Member States

Belgium:

Competent authorities carry out research in line with their competences. Research is realized via public procurement, and organisations such as Unia and the IEFH (the Belgian federal equality bodies) have their own research agenda.

Belgium also has a LGBTQ Forum. It is a network of researchers and representatives from various civil society organizations working on sexual and gender diversity. The objective of the network is to create a dialogue between research and practice.²⁴

The federal government has been working on a data collection project (in collaboration with Unia), financed by REC, to improve the collection of equality data in BE²⁵.

Finland:

In Finland, there is a national discrimination monitoring system in place. It is a mechanism for coordination and cooperation as regards equality data collection. The system aims at promoting awareness of need for equality data, at strengthening joint understanding on key elements that need to be taken into account when implementing equality data collection, and at facilitating cooperation and networking between key actors.

In 2020, six ministries initiated an assessment of realization of fundamental and human rights of LGBTI people in different areas of life. The assessment was published in 2021 and it

²² [EU High Level Group on Non-discrimination, Equality and Diversity, Guidelines on improving the collection and use of equality data.](#)

²³ [Acknowledging the importance of equality data, in February 2018, the EU High Level Group on Non-discrimination, Equality and Diversity set up the Subgroup on Equality Data to help Member States improve the collection and use of equality data. The European Commission asked the Fundamental Rights Agency \(FRA\) to support the work of that Subgroup. The Subgroup in question is made up of representatives from EU Member States and Norway, the European Commission, Eurostat, Eurofound, EIGE and FRA. Member States representatives are experts from governmental departments dealing with non-discrimination policies, national statistical institutes and equality bodies.](#)

²⁴ <https://www.uantwerpen.be/nl/projecten/lgbtq-forum/>

²⁵ The results and preliminary data hub can be found on <https://www.unia.be/nl/publicaties-statistieken/publicaties/data-over-ongelijkheid-discriminatie-in-belgie> (this is broader than just LGBTIQI equality data).

includes objectives and suggestions for measures to be implemented in different administrative sectors during 2021-2024.

National school health promotion study is conducted every two years for three age groups (primary school 4th and 5th grade/ secondary school 8th and 9th grade/ 1st and 2nd year of upper secondary education). The study includes questions on sexual orientation and gender identity, and provides robust data on welfare and health of LGBTI youth.²⁶

Germany – preparations and assessments for new Government:

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth is working together with the Observatory for Socio-political Developments in Europe in monitoring socio-political processes and policies on the European level, inter alia LGBTIQ policies such as the EU LGBTIQ Equality Strategy. Through this work, the Observatory has, inter alia, been conducting comprehensive research on existing demands and guidelines for LGBTIQ national action plans at international and European level as well as best practices for setting up and designing action plans and corresponding activities in other EU member states.

Italy:

An agreement between ISTAT (Italian national statistical Institute) and UNAR (National Office against Racial Discrimination) signed on 2018 aims at filling the information gap by producing a comprehensive information framework on "Access to employment, working conditions and discrimination against LGBT+ people at work and on diversity policies implemented in enterprises". The project is divided into two macro-areas of activity that include the collection of information from employers, in particular enterprises (with 50 or more employees), and the main stakeholders and the direct collection of information on discrimination at workplace from LGBT+ people.²⁷

3.2. Identifying main challenges of LGBTIQ equality, paying attention to the situation of the most vulnerable

a. Relevance

In order to promote LGBTIQ equality, it is important to trace and recognize the particular challenges LGBTIQ people face in life. The LGBTIQ Equality Strategy 2020-2025 refers to main challenges identified across the EU. Although challenges met by LGBTIQ people in

²⁶ Thematic articles have been published on welfare of LGBTI youth based on the results (<https://www.julkari.fi/handle/10024/140742>, in Finnish only).

²⁷ See <https://www.istat.it/en/archivio/252737>; <https://unar.it/portale/documents/20125/117570/LGBT-Report.pdf/>

different countries, regions and municipalities may vary, the Strategy puts forward a valuable common framework of reference in order to assess the existing challenges in all Member States, regions, localities and beyond the EU.

b. Counselling

While tracking, observing and tackling challenges and inequalities LGBTIQ people are facing in society and life, it is important, in line with the LGBTIQ Equality Strategy and in full respect of existing national, EU and international legislations and obligations, to pay attention to the following issues:

- Feeling and experiences of unsafety, established discrimination cases and relevant national and EU case law, keeping in mind the challenge of under-reporting
- Employment situation, social exclusion and poverty of LGBTIQ people, paying particular attention to the situation of trans, non-binary and intersex people, drawing on comparison with the general public
- Multiple and intersectional discrimination, paying particular attention to trans and intersex people, LGBTIQ women, children, youth, LGBTIQ people with disabilities, elderly LGBTIQ people and those with migrant background
- Situation of rainbow families and their protection, in full respect of human rights and fundamental rights and national and EU legislations
- Special situation of young LGBTIQ people, including risk of poverty, social exclusion and homelessness
- Physical, mental and sexual health situation of LGBTIQ people, paying particular attention to the situation of trans and intersex people; and access to appropriate health care services, including measures for bisexual and gay men to prevent HIV/AIDS contaminations

Besides the potential challenges enumerated above, there may be particular national, regional or local concerns that are not directly referred to in the LGBTIQ Equality Strategy. It is important to pay attention to and address them appropriately in respect of roles, competences and mandates of each actor at all administrative levels.

c. Good practices from Member States

Denmark:

The Minister for Equal Opportunities has the overall responsibility of coordinating the national LGBTI action plan. The process of identifying initiatives is anchored in a formal process within the government. The methods for identifying initiatives are among others:

- Each ministry identifies challenges and initiatives within their area
- Meetings are held with the national LGBT+ NGOs
- Reports and other data are analysed

Ireland:

The development of the LGBTI+ Inclusion Strategy was underpinned by a robust consultation process, which took place between October 2018 and February 2019. Leading LGBTI+ experts facilitated a series of regional and thematically focused workshops.²⁸ A number of LGBTI groups provided written submissions as part of the public consultation.

In addition to this, specific workshop sessions were organised for the intersex community, Travellers, asylum seekers, migrants, refugees, and LGBTI+ people with a hearing disability to ensure that the voices of the more marginalised members of the LGBTI+ community were adequately heard. Sessions with volunteers and service providers were convened, and 32 written submissions were received.

Through these consultations and workshops, and in tandem with literature review and the written submission process, a number of key areas and themes to address in the Strategy were identified.

Italy:

Lack of independent, certified and up-to-date information, easily accessible to transgender people, both in health and legal rights, used to be a challenge that needed to be addressed to foster social inclusion of LGBTIQ population. In this regard, the National Office against Racial Discrimination (UNAR) and the Italian National Institute of Health created [Infotrans](#)²⁹ in May 2020. It is the first institutional web site in Europe that makes it possible for allowing transgender people to easily access to up-to-date databases dealing with health, rights and anti-discrimination rules at the workplace.

Spain:

On 5th November 2021, a roundtable on the legal gender recognition was organised in Spain at the Ministry of Equality, jointly with the Council of Europe.

The roundtable was part of a Council of Europe project to carry out a thematic analysis on the implementation of the Council of Europe Recommendation on measures to combat discrimination on grounds of sexual orientation or gender identity.

²⁸ Regional sessions took place in Cork, Dublin, Dundalk, Galway and Limerick.

²⁹ See www.infotrans.it

The aim of the roundtable was to support ongoing efforts to advance dialogue at the national level on issues relevant to the human rights of LGBTI people. The roundtable served, inter alia, to discuss possible gaps and shortcomings in the legal recognition of gender and to identify priority reforms to achieve the objectives of the Recommendation.

The roundtable enhanced participation and involved a wide range of stakeholders, such as other Ministries, regional administrations, political representatives, NGOs, trade unions, as well as national and international LGBTI organisations.

Sweden:

There is an established, continuous dialogue between the Government and organizations defending the equal rights of LGBTIQ people.

The report of the appointed commission of inquiry “Transpersoner i Sverige – Förslag för stärkt ställning och bättre levnadsvillkor” (Transgender people in Sweden – Proposals for an improved position and better living conditions) (SOU 2017:92) provides an account of the results of the commission’s survey of trans people’s living conditions. It also proposes measures in several areas with the aim of strengthening the status of trans people.

Surveys from FRA are very useful too.

3.3. Setting clear, ambitious and measurable priorities for promoting LGBTIQ equality and awareness raising

a. Relevance

It is important, in order to frame, guide and put forward concrete, results oriented actions to enhance LGBTIQ equality, to set ambitious and clear priorities for the protection of the rights of LGBTIQ people. While respecting EU and international law commitments, including EU values, human rights and fundamental rights, it is up to the Member States to put forward their own priorities. It is reasonable and justified to identify priorities in close co-operation with national civil society organisations representing the different identities included in the LGBTIQ community.

The LGBTIQ Equality Strategy 2020 - 2025 proposes a series of objectives and actions to enhance protection of the rights of LGBTIQ people. The strategy provides a frame of reference for action and priorities in the Member States.

The actions proposed in the LGBTIQ Equality Strategy are categorised across four pillars:

1. Tackling discrimination against LGBTIQ people;

2. Ensuring LGBTIQ people’s safety;

3. Building LGBTIQ inclusive societies; and

4. Leading the call for LGBTIQ equality around the world.

b. Counselling

While setting priorities for protection of the rights of LGBTIQ people in full respect of international, EU and national legislations, it is recommended to pay attention to the following key areas of action put forward in the LGBTIQ Equality Strategy:

- Improve safe and inclusive education for children and youth
- Address the specific needs of LGBTIQ applicants for international protection while ensuring safe reception, detention and accommodation conditions
- Improve the training of protection officers and interpreters dealing with asylum claims by LGBTIQ people
- Exchange best practice on protection against hate speech and hate crime against LGBTIQ people
- Promote a safe and supportive environment for LGBTIQ victims of crime
- Improve training and capacity building for law enforcement to better identify and record LGBTIQ-phobic bias increase crime reporting.
- Improve the inclusion of trans, non-binary and intersex people in relevant documentation, applications, surveys and processes

c. Good practices from Member States

Belgium:

Work for a SOGIESC federal action plan started on early December 2021, taking as a basis a compilation of international recommendations, together with recommendations and proposals from experts and civil society. The plan aims to increase security and maximize inclusiveness of LGBTIQ+ people, focusing on federal competences and complementing the existing action plans and initiatives of the federated entities. In a second stage, cooperation with federated entities around common objectives will be explored.

Denmark:

The Danish national action plan prioritizes the following seven areas which combined contains 42 specific initiatives:

1. Counselling, networks and support

2. *Promoting openness and inclusion in the labour*
3. *Combating prejudice among young people and promoting openness in education*
4. *Combatting homophobia and transphobia in public spaces, sports and leisure*
5. *Enhancing knowledge and counselling within healthcare and elderly care*
6. *International responsibility and cooperation*
7. *Cross-cutting initiatives*

France:

2020-2023 National Action Plan for equality, and against anti-LGBT+ hatred and discrimination:

Featuring 42 concrete actions that concern all relevant areas of LGBT+’s lives (such as the family sphere, school, university, work, health, sports), the plan relies on four axes: the recognition of the rights of LGBT+ people; the strengthening of their access to rights; the fight against anti-LGBT+ hatred; and the improvement of their daily lives. Particular attention is paid to the most invisible LGBT+ people. The implementation of this Plan counts with the support of all government services, but also local authorities, associations and the private sector. A monitoring committee, which includes LGBT+ associations, meets every six months to ensure that the measures are properly implemented.

Germany:

Germany takes LGBTIQ concerns into account in various broad and intersectional projects: With "[Demokratie leben!](#)" for instance, civil society engagement for a diverse and democratic coexistence and work against radicalisation and polarisation has been promoted and supported since 2015. Amongst single LGBTIQ projects, this includes a competence network on homo- and transphobia, bundling and transferring information and successful prevention approaches nationwide and providing expert advice. Furthermore, Germany funds projects specifically addressing intersectional discrimination by targeting especially vulnerable groups such as elderly lesbians or queer children and youth.

Greece:

In Greece, the LGBTIQ+ Strategy is in process of being implemented by responsible Ministries, through specification and implementation of a great number of concrete actions. Many of these actions have been included in the Annual Action Plans of the competent Ministries.

Here are a few examples of changes in progress from different fields:

- *The outright ban on blood donations by MSM (Men who have sex with Men) will be abolished in 2022.*

- Transgender citizens are included in targeted programs that subsidize 90% of the labour cost for businesses.
- A program related exclusively to LGBTIQ+ issues for employees in the public sector
- Surgeries on intersex infants and other unnecessary and potentially harmful medical interventions will become illegal.
- Conversion therapies will be made illegal, with a blanket ban for minors.
- A series of proposals with an emphasis on education, such as new curricula including the dimension of gender expression and identity, and sex characteristics, the appointment of an educator or psychologist with sufficient knowledge of LGBT + issues in each school. Strengthening the training of health professionals, including LGBTQI + code of ethics issues.

Ireland:

Ireland's first National LGBTI+ Inclusion Strategy 2019-2021 was published on 28 November 2019 and complements the National LGBTI Youth Strategy published in June 2018.

The overall vision informing the Strategy is of a safe, fair and inclusive Ireland where people are supported to flourish and to live inclusive, healthy and fulfilling lives, whatever their sexual orientation, gender identity or expression, or sex characteristics.

The Strategy pursues objectives under four thematic pillars providing a vision of an Ireland where LGBTI+ people are visible and included, treated equally, healthy and feel safe and supported. With a view to making progress towards these high-level objectives, 108 actions were agreed. As a living document, provision has also been made for modification of the Strategy as needs arise during its lifetime.

LGBTI+ National Youth Strategy 2018-2021

The LGBTI+ National Youth Strategy was published on 29th June 2018 and was a world first, action-oriented mission to ensure all LGBTI+ young people are visible, valued and included. The Strategy has now concluded and an evaluation process is underway. Achievements under the Strategy include the LGBTI+ Youth Leadership Programme, the Live Out Loud campaign, the launch of the LGBTI+ Youth in Ireland Report, the 2021 LGBTI+ Capacity Building Grant Scheme and the establishment of the LGBTI+ Youth Forum.

Malta:

The Maltese LGBTIQ Equality Strategy and Action Plan 2018-2022 pre-dates the EU Strategy. The first National Action Plan was launched in 2015 and ran until 2017. The current strategy identifies 10 thematic areas:

- right to equality and freedom from discrimination
- right to education;
- right to health;

- *equality in sport;*
- *right to private and family life;*
- *freedom from hatred;*
- *LGBTIQ civil society;*
- *right to seek asylum;*
- *promotion of LGBTIQ equality on an international level; and*
- *other LGBTIQ measures.*

50 measures were set out in the Strategy under the thematic areas.

Portugal:

In 2018, the Portuguese Government approved the National Strategy for equality and non-discrimination 2018-2030 "Portugal + Equal", whose implementation will be coordinated and monitored by the Commission for citizenship and gender equality (CIG).

The strategy is translated into three plans for four years 2018-2021.

The first pillar is entitled "Action Plan for equality between Women and Men" and as 77 measures.

The second pillar is entitled "Plan to combat violence against Women and domestic violence".

The third pillar is innovative, titling "Plan to combat discrimination on grounds of sexual orientation, gender identity and sexual characteristics".

For the first time, a specific plan is outlined to combat discrimination on grounds of sexual orientation, gender identity and expression, and sexual characteristics, by defining priority areas of intervention measures, such as information and training, and the level of various sectoral policies.

The Plan has four areas:

- 1. Promote knowledge of the actual situation about the needs of people and the victim of discrimination on the grounds of the SOGIE.*
- 2. Ensure SOGIE mainstreaming.*
- 3. Combat discrimination on the grounds of SOGIE in the labour market*
- 4. Prevent and combat all forms of violence against LGBTI people in public and private life.*

Sweden:

Since 2014, the Swedish Government's work to improve LGBTIQ people's situation is based on the Strategy for equal rights and opportunities regardless of sexual orientation, gender

identity or gender expression. The Strategy sets the foundation for long-term work in the focus areas of violence, discrimination and other abuses, young LGBTIQ people, health, healthcare and social services, private and family life, culture, and civil society. The strategy served as a starting point when preparing the more recent National Action Plan. In the National Action Plan, the focus areas were supplemented with two additional ones, namely working life and elderly LGBTIQ people.

3.4. Ensuring effective legal protection of LGBTIQ people and proper law enforcement

a. Relevance

It is crucial to set strong, straight forwarded and well-functioning legal framework to ensure the scrupulous respect and enforcement of human and fundamental rights of LGBTIQ people in all circumstances. In case of violation of those rights, appropriate legal and administrative mechanisms, remedies and structures should be available to the victims. This preferably includes establishing clear guidelines and conducting training on the specific needs of LGBTIQ people for law enforcement, judicial authorities and other first respondents. The LGBTIQ Equality Strategy pays particular attention to the legal protection of LGBTIQ people.

b. Counselling

In order to appropriately respect human and fundamental rights of LGBTIQ people and EU law obligations, it is important to:

- Assess, as appropriate in national circumstances and legal context, the state of legal protection of LGBTIQ people including the coverage of existing laws, both LGBTIQ targeted and general equality acts, on rights of rainbow families, children; and trans and intersex people and on legal recognition of gender identity, gender expression and sex characteristics, and existing remedies available to victims in cases of violations against law
- Ensure, for people of all ages, legal protection against discrimination on the grounds of sexual orientation, gender identity/expression and sex characteristics in various areas including equal access to health care, social protection, housing and labour market
- Put in place, in accordance with the priorities and legislation of the Member States and EU and international case law, transparent and accessible legal gender recognition legislation and procedures based on self-determination
- Rigorously apply the right to free movement including for LGBTIQ people and their families, and EU rules on family law³⁰

³⁰ Including the following rulings of the Court of Justice of the European Union: Case C-673/16, Coman, 5.6.2018; and Case C-490/20 Stoliczna obshtina, rayon „Pancharevo“, 15.12.2021.

- Address, preferably through criminal law, the challenge of hate crime, hate speech and violence against LGBTIQ people, paying attention to under-reporting of incidences and reasons behind
- Ensure safe crime reporting, taking into account specific vulnerabilities of victims, notably in cases of domestic violence, gender-based violence, intersectional violence, trans people not having documents matching to their identity, LGBTIQ people with irregular migration status, homelessness or working in the informal labour market
- Set appropriate legal support mechanisms and remedy structures for victims of discrimination and crime, taking into account the situations of multiple and intersectional discrimination, via full and correct implementation of the Victims' Rights Directive and other EU rules on victims' rights for LGBTIQ victims of crime
- Launch national awareness campaigns about victims' rights, including support for victims with specific needs
- Support the role of civil society in responding to hate crimes and in strengthening victims' rights by ensuring their proper operating conditions including enabling third-party reporting, paying particular attention to the availability of financial resources where appropriate, including with the help of available EU funding
- Raise awareness about victims' rights and to promote specialist support and protection for victims with specific needs such as victims of gender-based and domestic violence; or victims of hate crime
- Involve civil society, including organisations representing the different identity parts of the LGBTIQ community and LGBTIQ people in intersectional positions, in the development of campaigns and policies aimed at raising awareness or improving the public response to hate crimes

c. Good practices from Member States

Belgium:

Belgium has a very progressive legal framework to protect the rights of LGBTI persons. Discrimination on the grounds of sexual orientation, gender identity and gender expression is prohibited in federal and federated legislation. Federal legislation was amended in 2020 to include the protected criterium sex characteristics. The protection against discrimination in the Flemish framework Decree will be extended in the same way by the end of 2022.

The legislation criminalises direct discrimination, indirect discrimination, intimidation and sexual harassment and the instruction to discriminate. In almost all legislation multiple discrimination and discrimination by association is included.

The Criminal Code creates an aggravating circumstance where one of the motives of the crime is hatred, contempt, or hostility against a person because of sexual orientation.

Criminal law is currently under review and the inclusion of the aggravating circumstance homophobia in hate crime legislation is also being considered.”

- *Federal non-discrimination law (2007)*³¹
- *Federal Gender law (2007)*³²
- *Flemish framework Decree for Equal Opportunities and Non-discrimination (2008)*³³
- *Non-discrimination Decree (French-speaking community – 2009)*³⁴
- *Non-discrimination Decree (Walloon Region – 2009)*³⁵
- *The Brussels Capital Region and German speaking community also have legislation on non-discrimination*

Finland:

Discrimination on the grounds of sexual orientation is prohibited in the Non-Discrimination Act. The Equality Act prohibits discrimination on the grounds of gender, gender identity and gender expression. A person who has been discriminated against can claim compensation at court based on these two acts. Discrimination and work discrimination are also criminalized in the Criminal Code.

The Non-Discrimination Act and the Equality Act require that authorities, education providers and employers take measures to promote equality. The two Acts also require that certain actors (Question: which actors?) have a plan of the necessary measures for promotion of equality.

The Non-Discrimination Ombudsman and the Occupational Safety and Health Officials monitor the Non-Discrimination Act. Ombudsman for Equality monitors the Equality Act. In addition, the National Non-Discrimination and Equality Tribunal supervises compliance with the Non-Discrimination Act and the Equality Act.

Hate crime and hate speech legislation include sexual orientation and gender identity as protected characteristics. “Ethnic agitation” is criminalized, in which the protected characteristics include sexual orientation and belonging to a gender minority. Punishment for a crime can be increased if the offence had a motive based on e.g. sexual orientation or another corresponding ground, including gender identity.

³¹ https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=2007051035&table_name=wet

³² http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2007051036

³³ <https://codex.vlaanderen.be/portals/codex/documenten/1017082.html>

³⁴ https://www.gallilex.cfwb.be/document/pdf/33730_002.pdf

³⁵ http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=2008110649&table_name=wet

Greece:

Within the frames of the LGBTIQ+ Strategy, the actions of the Ministry of Justice include, among other things, education and training of judicial officers and judicial staff on LGBTIQ+ rights issues, the publication of a detailed Guide on LGBTIQ+ victims' rights, the support of events on LGBTIQ+ Equality.

Ireland:

The LGBTI+ Inclusion Strategy includes a commitment to ensure that the legislation concerning hate crime and hate speech is sufficiently robust to protect LGBTI+ people. In this regard, advancement continues within the legislative proposals to ensure that incitement to hatred and hate crimes against LGBTI+ people are adequately addressed in legislation, accompanied by operational measures to increase the recording and reporting of hate crime.

The Strategy also provides for a review of the Employment Equality and Equal Status Acts to ensure that transgender, non-binary and intersex people have explicit protections within the equality grounds of the equality legislation.

Luxemburg:

The law of 28 November 2006 on equality of treatment and the amendment of 3 June 2016 outlaw discrimination on multiple grounds, including based on sexual orientation and change of sex. A law of 20 July 2018 added gender identity to the prohibited grounds of discrimination in the Criminal Code.³⁶

In 2018, Luxembourg passed a law minimising obstacles for trans and intersex persons wanting to modify their stated sex and/or names in the official register. Such changes no longer need a medical certificate, psychiatric report or evidence of medical intervention.

Malta:

Malta has topped ILGA-Europe's Rainbow Index since October 2015 thanks to its increasingly comprehensive legal and policy framework. The framework includes, among other things, equal recognition of all couples including parenting rights; access to legal gender recognition including the possibility of an X marker on Identity Documents; recognising SOGIGESC as grounds for persecution for those seeking international protection; hate crime and hate speech provisions that cover SOGIGESC; sexual orientation and gender identity anti-discrimination provisions in the Constitution; a ban on conversion practices.

The findings of the FRA LGBTI Survey II and the Special Eurobarometer on discrimination in the EU indicate that these measures have led to increasing acceptance of support for access to legal gender recognition in Maltese society and below average reporting of physical and sexual violence among the EU Member States.

³⁶ [Loi du 20 juillet 2018 portant approbation de la Convention du Conseil de l'Europe sur la prévention et la lutte contre la violence à l'égard des femmes et la violence domestique, signée à Istanbul le 11 mai 2011 et modifiant 1\) le Code pénal ; 2\) le Code de procédure pénale ; 3\) la loi modifiée du 8 septembre 2003 sur la violence domestique ; 4\) la loi modifiée du 29 août 2008 sur la libre circulation des personnes et l'immigration. - Legilux \(public.lu\)](#)

Spain:

On 29 June 2021, the Council of Ministers approved the report of the Preliminary Draft Law for the real and effective equality of trans people and for the guarantee of the rights of LGTBI people.

The Preliminary Draft Law contemplates, among other measures, gender self-determination for trans people and a series of measures aimed at protecting and promoting the rights of LGTBI people. In its articles, this Preliminary Draft Law expressly includes the elaboration of two national strategies for the promotion of public policies aimed at the real and effective equality of trans and LGTBI people. On the one hand, the regulation establishes the elaboration of a national strategy for equal treatment and non-discrimination of LGTBI people, which is an instrument of territorial collaboration for the promotion, development and coordination of public policies, and on the other hand, this Preliminary Draft Law also includes the elaboration of a specific national strategy for the social inclusion of trans people. (Both will be a four-year Strategy).

Regarding the fight against hate crimes, the General Directorate for Sexual Diversity and LGTBI Rights participated on 10 September 2021 in the Monitoring Commission of the Ministry of the Interior's Plan to Combat Hate Crimes, with the aim of analysing the increase in LGTBI aggressions in recent months and establishing lines of action until 2024.

In this context, the proposals of the Ministry of Equality include:

The approval of the Trans and LGTBI Law to prevent and eradicate violence, including hate crimes;

- strengthening sexual diversity education fully integrated into the education system;*
- supporting civil society organisations working against hate crimes;*
- To continue with the collaborative work between all ministerial departments and other administrations involved in this area.*

Sweden:

Highlights from a very comprehensive and protective Swedish legislation:

- Under the Discrimination Act from 2009 discrimination is prohibited in all sectors of society on the grounds of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.*
- Criminal law protection for transgender people has been expanded and clarified through legislative changes that came into force in 2018 and 2019. The ground “transgender identity or expression” has been added to the provisions on incitement to hatred and unlawful discrimination, as well as to the criminal offence of insult. It is now explicitly stated that it is deemed an aggravating circumstance if a motive for a crime was to violate a person or a group of people on the ground of transgender identity or expression.*

- *Under the Aliens Act, a person who has a well-founded fear of persecution because of gender, sexual orientation or other membership of a particular social group is covered by the definition of refugee, and such persecution may thus constitute grounds for asylum.*
- *A number of measures have been taken to modernise the family law regulations and adapt it to new ways of building families. Both the Marriage Code and the Cohabitees Act (2003:376) have been made gender-neutral. Assisted reproductive treatment is a well-established procedure, and the possibilities of becoming a parent through such treatment have been gradually extended to married couples, cohabiting couples and single women. The conditions for becoming a parent through assisted reproductive treatment have become the same for everyone, regardless of gender or sexual orientation, and the requirement for the child to have a genetic link to at least one parent has been removed. In addition, the abolition of the sterilisation requirement for gender reassignment has made it possible for a person who has changed gender to male to give birth or who has changed gender to female to contribute sperm to the conception of a child. In addition, the rules on adoption have been modernised and it is now possible for both married and cohabiting couples as well as single persons to adopt.*
- *The Government is continuing to work to present proposals for modern gender recognition legislation.*

3.5. Transparent management, leadership and co-ordination of LGBTIQ equality matters, including mainstreaming and active involvement of civil society

a. Relevance

It is important, for the coherence and efficiency of the protection of the rights of LGBTIQ people, to manage, lead and coordinate LGBTIQ equality strategies, initiatives and actions in a determined, coordinated and structured way and through constructive, positive and transparent regular co-operation between all relevant stakeholders, including civil society. The respect of LGBTIQ rights must be integrated in and mainstreamed into relevant policy and administrative fields at different levels of governance.

b. Counselling

In order to ensure the appropriate management of LGBTIQ protection, it is important to pay attention to:

- Clearly and transparently defined responsibilities, competences, mandates, leadership and decision-making roles over the LGBTIQ matters, including on set priorities and concrete activities, within national, regional and local Governance and administrative structures
- Permanent and regular co-ordination structures and methods within the Government and public administration, bringing together all relevant policy areas and administrative fields such as social affairs, health, education, youth, gender equality, employment and interior affairs; involving equality bodies as appropriate, including possibility of establishing a national co-ordination council to lead the co-ordination

- Permanent structure for smooth co-operation and articulation between state, regional and local levels, respecting each other's competences
- Active, regular and structured involvement of civil society, civil society organisations and social partners in management of LGBTIQ matters, for example through a dedicated LGBTIQ forum or platform looking for the broadest possible involvement of organisations representing the different identities included in the LGBTIQ community³⁷ and LGBTIQ people in intersectional positions
- Developing tools and methods to mainstream LGBTIQ perspective appropriately and effectively into relevant policy fields, strategies and funding programmes, including use of training, capacity building and awareness raising and diversity recruitment as means
- Safeguarding the operating conditions, resources and budgets of stakeholders and instances responsible for the LGBTIQ matters and LGBTIQ equality civil society organisations as appropriate
- Ensuring compliance with the principle of non-discrimination in the implementation of funding programmes in all policy areas
- Institutional anchoring and permanence on protection of the rights of LGBTIQ people beyond a specific timeframe and independently from the results of elections
- Using digital tools and platforms to make the co-operation and management easier and more efficient

c. Good practices from Member States

Finland:

The cooperation network on rainbow policies was established within the Finnish Government in 2019. The network aims at practical exchange of information on ongoing processes, planned events and other topical issues both at national and at international level. At the same time, the cooperation within the network also enhances trust between different stakeholders. A wide range of actors participates in the network: ministries, Equality Bodies, national human rights institutions, non-governmental organizations, state agencies such as the National Agency for Education. The network is coordinated by the Ministry of Justice and the Ministry for Social Affairs and Health and meets every two months. Besides topical issues, the network discusses also strategic advancement of rainbow policies in the public sector, such as follow up of LGBTI-related measures in the gender equality and equality plans.

³⁷ Organisations focusing on trans people, intersex people, LGBTIQ women, LGBTIQ children and youth and of LGBTIQ people with disability.

France:

2021 Guidelines for all national education staff concerning a better consideration of gender identities in schools:

The circular of 29 September 2021 is addressed to all staff (rectors, inspectors, school directors, teachers, administrative staff), in primary and secondary education, and it aims at clarifying the rules in order to take account of transgender students. The guidelines are based on good practices focused on the provision of support to transgender students and their protection from discrimination, harassment and violence. They emphasise the importance of understanding the needs expressed by the young people concerned, their protection through the implementation of individual support measures - developed together with their families - and the deployment of preventive measures guaranteeing each pupil the best chances of personal development, perseverance and success at school.³⁸

Germany:

Germany holds regular meetings between representatives of the ministries on a federal and state level tasked with LGBTI issues. They meet once a year in one of the federal states - if possible, in person - which is organised in turn by the federal states. In addition, there are low-threshold digital exchanges discussing topical issues and challenges, such as Trans-Exclusionary Radical Feminism (TERF) or blood donation restrictions for men having sex with men. These exchanges take place more often in between the official meetings (about every 3 months, depending on demand).

Greece:

Following the EU's LGBTIQ Equality Strategy, a National Committee on LGBTIQ Equality Strategy was set up, with the task of drafting the National Strategy for LGBTIQ Equality. The competent Ministries define the specification and the implementation of the strategy.

Following up on the National Strategy for LGBTIQ+ Equality, a team has been formed within the Prime Minister's General Secretariat to transform it into a concrete national action plan. The action plan has been presented to all competent ministries and specific targets have been set. The specific goals are included in the ministries' annual action plans in order to ensure the effective monitoring of the implementation of the initiatives.

Numerous one-to-one meetings are held between the members of the Prime Minister's team and government officials to address specific issues and to put forward the policies covered in the action plan.

Italy:

The civil society organizations are strongly involved in the process of elaboration of the new LGBT+ National Strategy, through periodical plenary sessions of the Permanent

³⁸

<https://www.education.gouv.fr/bo/21/Hebdo36/MENE2128373C.htm>

Consultation Table, set up by the Minister for equal opportunities, as well as thematic working groups coordinated by the National Office against Racial Discrimination (UNAR)³⁹, focused on identification of priority topics, objectives and measures. Overall, 66 LGBT+ NGOs that expressed their interest to participate to the process have been admitted through a public call. A process of discussion completes the consultation with the Ministries involved, at the political and technical level.

Malta:

In 2013, the Government set up the LGBTIQ Consultative Council comprised primarily of representatives of civil society organisations, which acts as an advisory body to Government on LGBTIQ issues. The Council is able to raise concerns on the situations they encounter and bring to light the gaps that are yet to be addressed. The Council is also involved in the drawing up of the LGBTIQ Strategy. The Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics Unit (SOGIGESC) of the Ministry reports on the implementation of the Strategy to the Council.

Slovakia:

In Slovakia, there is the Committee for rights of LGBTI people, which is a permanent expert committee established by the government as part of the Governmental Council for Human Rights, National Minorities and Equal Treatment. This Committee consists of experts from state agencies (high-level representatives of relevant Ministries, Public Defender's Office, National Labour Inspectorate, etc.) and NGOs maintaining an equal representation (10-10). The Minister of Justice chairs it. It creates a platform for regular meetings between NGOs and state representatives, as well as forum for discussion on topics relating to the protection of LGBTI persons.

Spain:

The LGBTI Participation Council was created by Order IGD/577/2020, of 24th June, which created the Council for the Participation of Lesbian, Gay, Trans, Bisexual, Bisexual and Intersex (LGTBI) persons and regulates its functioning. It held its constitutive plenary session on 25 June 2021.

The Council has representatives from ten ministerial departments, the autonomous communities, local entities, universities, trade union and business organisations, as well as civil society.

The objective of the Council is to institutionalise collaboration and strengthen permanent dialogue between the Public Administrations and civil society in matters related to equal treatment, non-discrimination on the grounds of sexual orientation, gender identity or

³⁹ <https://unar.it/portale/avviso-di-manifestazione-di-interesse-per-la-partecipazione-al-tavolo-di-consultazione-permanente-per-la-promozione-dei-diritti-e-la-tutela-delle-persone-lgbt>

<https://unar.it/portale/costituzione-del-tavolo-di-consultazione-permanente-per-la-promozione-dei-diritti-e-la-tutela-delle-persone-lgbt>

expression; and to reinforce the participation of LGTBI people and their families in all areas of society.

The Council has different working groups that deal with different sectoral policies (health, education, hate crimes, regulations, communication and work) from which it prepares proposals and carries out relevant studies and reports that serve as a basis for the elaboration of public policies on LGTBI issues.

3.6. Monitoring and evaluation of the implementation of measures to safeguard and promote LGBTIQ equality

a. Relevance

Independent monitoring and evaluation of the implementation of legislation, policy actions and of the use of public finances are cornerstone of democratic, responsible and evidence based policy-making. Awareness and recognition of the results achieved helps steering policies in targeted direction in an effective way There is a clear need to develop further rigorous tools and methods for assessing results of legislative, political and budgetary measures promoting LGBTIQ equality.

b. Counselling

While establishing independent monitoring and evaluation mechanisms and structures for the implementation of laws and other actions protecting LGBTIQ equality, it is important to pay attention to the following issues:

- Effective implementation of the legal obligations and adequate resource allocation to law enforcement in particular where human and fundamental rights and/or criminal law are at stake
- Setting ambitious, transparent, concrete and measurable targets for the implementation of actions protecting and advancing LGBTIQ equality, already at planning and preparatory phase
- Providing a clear budget, allocation of responsibilities and timeline for implementation
- Independency, rigour and regularity of the monitoring and evaluation process, involving appropriately policy makers, independent researchers, civil society and LGBTIQ people in their diversity
- Methodological solidity used in the evaluation and monitoring, based on reasonable and neutral indicators
- Drawing from results and comparative analysis of the findings of the EU LGBTI Survey I(2012), II (2019) and 3 (2023) in order to assess reliably the development and trends in the protection of LGBTIQ persons' rights, including in relation to the EU and other Member States

c. Good practices from Member States

Belgium:

An independent and broadly representative committee has been designated to evaluate the federal anti-discrimination laws of 2007 (including the gender law) in terms of impact, and to make recommendations to improve these laws.

For the interfederal SOGIESC action plan 2018-2019, the Equal Opportunity administrations, the Equality bodies and the civil society were gathered and consulted to discuss the progress reports and to evaluate the actions implemented or not implemented. Considering all contributions, an evaluation report has been established.

The Flemish framework decree was evaluated in 2020 and legislative modifications to strengthen the enforcement will be passed in 2022.

Denmark:

The Danish Minister of Equal Opportunities publishes the report ‘Report/perspective and action plan’ each year. Among other things, the report takes stock on the initiatives from the national LGBTI action plan.

Greece:

Initiatives for the rights of LGBTIQ+ have been added to the annual action plan of the Ministry of Justice. This makes the monitoring of their implementation more effective and the accountability of the Ministry clearer given that, according to the provisions of Law 4622/2019 (executive state), the annual action plans are published on the website of each Ministry on a yearly basis.

Ireland:

A Strategy Committee is in place to oversee implementation of the National LGBTI+ Inclusion Strategy, and includes civil society groups representing LGBTI+ people.

Luxemburg:

The national action plan provides for an external mid-term review to be carried out after three years and an external evaluation after five years. As the NAP is designed as a multi-annual action plan, the evaluation should be seen as an ongoing process. The mid-term review analyses the process of implementation of the NAP on the one hand and the need to adapt the NAP LGBTI to the current political and social context on the other. The evaluation planned after five years will focus more on the impact of the measures implemented.

Malta:

For each of the 50 measures set out in the Maltese LGBTIQ Equality Strategy an implementing body is identified. Information on the stage of implementation of each measure

is gathered on a quarterly bases from focal points identified during the adoption of the strategy. The SOGIGESC Unit publishes an annual report providing updates on each of the measures addressed in the preceding year.

Portugal:

The Portuguese National Strategy and its three action plans (duration: 4 years) are regularly evaluated on the implementation of its measures. On 31st December 2021, a programmatic cycle ended, and a report on the implementation of the measures foreseen in the plans should be issued in the first quarter of 2022. In addition, a new action plan will be launched.

Portugal is undertaken an independent expert evaluation of the development, implementation and impact so that new measures/plan can be designed to meet the needs of LGBTI people.

4. CONCLUSIONS

These guidelines offer Member States and their competent authorities a strategic support tool to enhance, promote and mainstream LGBTIQ equality in accordance with the EU's first-ever LGBTIQ Equality Strategy. Member States are encouraged to take further action, including planning, preparing, updating, implementing and monitoring Action Plans, as recommended and exemplified in these guidelines. Paying simultaneously attention to the importance of evidence-based policy-making, recognising existing challenges, setting realistic priorities, ensuring adequate legal protection, establishing transparent and inclusive management and monitoring arrangements create a well-functioning and promising frame for achieving LGBTIQ equality.

These guidelines are built on in-depth discussions and analysis within the LGBTIQ Equality Subgroup. They are an EU level answer to strategic and concrete needs of Member States, pay particular attention to factual findings and observations in Member States and identify existing well-functioning practices across the EU. Existing National Actions Plans, experiences from their planning, implementation, monitoring and updating are the cornerstone and backbone of these guidelines, together with data, analyses and guidance from EU's Fundamental Rights Agency, Council of Europe, OECD and civil society organisations.

The guidelines were finalized through discussions and co-operation with EU Level civil society organisations⁴⁰. In particular, the LGBTIQ Equality Subgroup organised a common session with the mentioned organisations on 3 February 2022 in which the organisations presented their comments on a draft of these guidelines. The organisations welcomed those draft guidelines. They considered that the process engaged by the Subgroup could be instrumental in harmonizing national strategies and actions plans on LGBTIQ equality and made concrete proposals for developing the guidelines further underlining notably the importance of:

⁴⁰ EL*C – EuroCentralAsian Lesbian* Community, IGLYO - International Lesbian, Gay, Bisexual, Transgender, Queer & Intersex Youth and Student Organisation, ILGA-Europe - International Lesbian, Gay, Bisexual, Trans and Intersex Association for the European Region, OII Europe - umbrella organisation of European human rights-based intersex organisations and TGEU – Transgender Europe.

- an intersectional perspective, paying particular attention to people in more vulnerable positions, such as LGBTIQ women, LGBTIQ people with disabilities, LGBTIQ youth, trans and intersex people;
- effective monitoring the implementation of Action Plans and Strategies through clear indicators, specific timelines and allocated budget and a clear division of responsibilities of the different bodies and authorities involved;
- structured involvement of national civil society organisations including organisations focusing on the different identities included in the LGBTIQ community; and
- appropriately segregated data and data collection reaching also those parts of the LGBTIQ community that are less visible and under-represented.

The comments and proposals from the civil society organisations have been appropriately integrated into these guidelines.

The LGBTIQ Equality Subgroup continues to support the Member States in their efforts to enhance LGBTIQ equality based on approach identified and agreed in these guidelines and the EU's first-ever LGBTIQ Equality Strategy. Recalling the importance of full respect of human rights, EU laws, existing competences and differences between Member States, the Subgroup warmly welcomes further national decisions and actions in this regard, including planning, developing, updating, implementing and monitoring of National Action Plans. In order to encourage and support the Member States, the Subgroup will continue its strategic discussions as follow-up to the adoption of the guidelines.

The LGBTIQ Equality Subgroup will also further deepen its discussions and exchanges on topical LGBTIQ equality issues such as legal gender recognition, protection of LGBTIQ people against discrimination, rainbow families, tackling hate crime and hate speech, and the situation of trans and intersex people. In accordance with the approach adopted in the guidelines, the Subgroup will base its discussions on existing evidence and data and follow Members States' objectives, experiences, challenges and good practices. Civil society organisations and other relevant partners and stakeholders are invited to take an active part in these discussions.

The Subgroup will report back to the High Level Group on Non-discrimination, Equality and Diversity on all these and its other activities. The situation and development regarding the six strategic dimensions identified in the guidelines and counselling on them will be paid particular attention to.

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