



**SOC/667**

**Union of Equality: LGBTIQ Equality Strategy 2020-2025**

## **OPINION**

European Economic and Social Committee

**Communication from the Commission to the European Parliament, the Council,  
the European Economic and Social Committee and the Committee of the Regions  
Union of Equality: LGBTIQ Equality Strategy 2020-2025  
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## 1. **Conclusions and recommendations**

- 1.1 The EESC welcomes and supports the courage of the European Commission in adopting the LGBTIQ Equality Strategy 2020-2025, which aims to reduce discrimination and ensure the safety and fundamental rights of LGTBI people throughout the European Union, through the adoption of legislative measures at European level, but also urging Member States to draw up and implement the action plans at national level that are mentioned in the strategy.
- 1.2 The EESC firmly believes that in order to be a successful strategy, the Commission must put in place a strong mechanism for implementing it and regularly monitoring its application, both horizontally and vertically. In this regard, the Commission must facilitate a broad dialogue between European and international institutions, Members States, civil society organisations, and social partners.
- 1.3 The EESC is convinced that in order to achieve its objectives, the LGBTIQ Equality Strategy must be correlated with other European strategies in order to have a cross-sectoral perspective, e.g. the Victims' Rights Strategy, the Gender Equality Strategy, the EU Anti-racism Action Plan, the Strategy for the Rights of Persons with Disabilities, and the Strategy on the Rights of the Child.
- 1.4 One of the most pressing issues regarding discrimination against LGBTIQ people concerns discrimination in the workplace and in terms of access to the labour market. Thus, the Equal Treatment and Employment Directive (2000/78/CE) must also protect transgender, non-binary, intersex and queer people against discrimination in these areas. In addition, the EESC welcomes the Commission's desire to extend the applicability of the directive to areas other than employment, considering it an effective measure to combat discrimination against LGBTIQ people.
- 1.5 To improve the employability of LGTBIQ people, active employment policies and introducing an LGTBIQ perspective in employment plans are necessary. It is also essential that LGTBIQ Equality Plans exist in companies, in order to combat discrimination suffered by LGTBIQ people at work, and that they set out concrete measures, protocols and tools to fight discrimination.
- 1.6 In order for LGBTIQ people to not face socio-economic deprivation and high rates of poverty and social exclusion, Members States must be encouraged to provide medical and social services, shelters, help programmes and safe places for LGBTIQ people who are victims of domestic violence, hate crimes and hate speech, and LGBTIQ youth who are left without family support, etc.
- 1.7 The EESC strongly believes that so-called conversion practices should be prohibited by all EU Members States, since they are practices that violate fundamental rights and have been classified as torture. The European Commission must support Member States to ban all forms of harmful practices, including medically unnecessary interventions on intersex people, and reform their legal gender laws to ensure that they meet the human rights standards of self-determination.

- 1.8 The EESC is asking the European Commission to provide funding for the training of professionals who interact with LGBTIQ people, as well as encourage the exchange of best practices between Member States. Furthermore, European funding is needed for the specialised training of doctors, teachers and other professionals in order to better understand the specific circumstances and needs of LGBTIQ people. Furthermore, the EUHealth4LGBTIQ pilot project is providing training manuals for healthcare providers and the European Commission should support Member States in ensuring that these training courses are available at national level.
- 1.9 Regarding the funding from the EU budget for the Member States, in our view, the European Commission must implement a strong mechanism for supervising the use of these funds by the Member States in accordance with the European principle of non-discrimination mentioned in Art. 2 TUE, as well as in full respect of fundamental rights as set out in the Charter of Fundamental Rights. This oversight must be performed both *ex-ante*, by carrying out a diversity audit, and *ex-post*, as set out in the Common Provision Regulation for the 2021-2027 funding period.
- 1.10 The European Commission must assume the role of guardian of the European Union's treaties and step up its efforts to ensure full implementation and application of relevant EU legislation and the case-law of the Court of Justice of the European Union in the Member States, especially with regard to Directive 2004/38/EC, as well as asylum legislation. It is also important that, in the context of free movement and cross-border situations, a clear, inclusive and non-discriminatory regulation on the notion of "family" is adopted at European level, including rainbow families, as well as on the recognition of birth certificates of transgender persons in all Member States, independently of other administrative or judicial proceedings.
- 1.11 The European Union must assume its role in helping to advance human rights globally, including the freedom and dignity of LGBTIQ people. To achieve this goal, the European community must work with international and regional institutions to universally decriminalise homosexuality and respect the dignity and the fundamental rights of LGBTIQ people worldwide.

## 2. General comments

- 2.1 The EESC considers that it is essential that both European and national institutions put in place public policies to protect LGBTIQ individuals, so that the values enshrined in the Charter of Fundamental Rights (CFR) as well as in the Treaty on European Union (TEU), namely "human dignity, (...), equality, (...), respect for human rights, including the rights of persons belonging to minorities", are respected throughout the Union<sup>1</sup>. The EESC supports the European Parliament resolution declaring the EU an "LGBTIQ-Freedom Zone".

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<sup>1</sup> Article 2 of the Treaty on European Union.

- 2.2 Data<sup>2</sup> from the European Union Agency for Fundamental Rights (FRA) shows that LGBTIQ individuals are a vulnerable group that needs support from both the European institutions and the national authorities in the Member States. We believe that the LGBTIQ 2020-2025 Equality Strategy is a first step in combating discrimination against sexual orientation, gender identity/expression and sex characteristics as well as ensuring a safe space for the LGBTIQ community throughout the European Union.
- 2.3 The EESC welcomes the Commission document's use of intersectionality as a cross-cutting principle: sexual orientation, gender identity/expression and/or sex characteristics are taken into account alongside other personal characteristics or identities, such as sex, racial origin, ethnicity, religion, faith, disability and age. All this is also put in the context of the COVID-19 crisis, which has disproportionately affected vulnerable LGBTIQ individuals.
- 2.4 However, in order for the LGBTIQ 2020-2025 Equality Strategy to be implemented effectively and efficiently throughout the European Union, the European Commission must create an operationalisation and monitoring mechanism to oversee whether or to what extent the strategy has been implemented. In this respect, the Commission must check annually whether and to what extent the European institutions and Member States have implemented the key priorities mentioned in the strategy. This evaluation should be carried out in consultation with Member States and organised civil society.

### 3. **Specific comments**

#### 3.1 **Discrimination against LGBTIQ individuals**

- 3.1.1 Discrimination affects LGBTIQ people at all stages of life. From an early age, children, young people and children of LGBTIQ or rainbow families, where one of the members is LGBTIQ, are often stigmatised, making them the target of discrimination and aggression that affects their educational performance, job prospects, their daily life, as well as the well-being of the whole family. Therefore, greater and better child protection measures are necessary, especially in the field of education, to eradicate the discrimination suffered by LGTBI people.
- 3.1.2 One of the most pressing issues regarding discrimination against LGBTIQ people concerns discrimination in the workplace<sup>3</sup> and in terms of access to the labour market. Thus, the Equal Treatment and Employment Directive must also protect transgender, non-binary, intersex and queer people against discrimination in these areas. In addition, the EESC welcomes the Commission's desire to extend the applicability of the directive to areas other than employment and vocational training, considering it an effective measure to combat discrimination against LGBTIQ people.

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<sup>2</sup> [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2020-lgbti-equality-1\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-lgbti-equality-1_en.pdf).

<sup>3</sup> In the workplace, LGBTIQ individuals continue to experience discrimination during recruitment, at work and at the end of their careers, contrary to the clear EU legislation in this area. Many LGBTIQ individuals face numerous barriers to finding fair and stable jobs, which has the effect of increasing the risk of poverty, social exclusion and homelessness.

- 3.1.3 With regard to discrimination in the workplace, particular attention must be paid to transgender people because of the social challenges they face (for example: the mismatch between the factual and legal situation due to difficult procedures for changing identity documents in most Member States, lack of medical procedures, prejudices they face, etc.). These social challenges can lead to harassment in the workplace, dismissal, and, generally, numerous problems from job search onwards.
- 3.1.4 We highlight the need for the European Union to establish lines of action on active employment policies, with the aim that the Member States and national authorities develop national employment plans that include specific measures for LGBTIQ people and limit the effects of the lack of access to employment from which they suffer structurally.
- 3.1.5 The EESC considers it essential to expand European regulations on equal treatment in employment, with the aim of incorporating trans people, as well as non-binary, intersex and queer people, with the purpose of protecting all LGBTIQ people from discrimination in employment on the grounds of sexual orientation, gender identity and expression, and sexual characteristics.
- 3.1.6 The EESC supports the European Commission's proposal to extend the Directive on equal treatment to other areas beyond work and vocational training. In this regard, we consider that the Commission must be supported in its request to the Council to adopt the proposal, in order to close the gaps in the protection provided by EU law against discrimination on grounds related to sexual orientation, but also gender identity/expression, sexual characteristics and family group.
- 3.1.7 The EESC supports the European Institutions' appeal to Member States to ratify ILO Convention No. 190 concerning the elimination of violence and harassment in the world of work, which refers to a range of unacceptable behaviours and practices directed at people because of their sex or gender and which gives guidance to governments and social partners on how to identify tools to prevent and address these forms of discrimination. Collective bargaining at all levels and collective agreements can help set targeted measures for the workplace, and with the implementation of the autonomous agreement signed by the European social partners against violence at work.
- 3.1.8 Given the discrimination of LGBTIQ individuals in the very space where they should feel most secure, namely in the family environment, many people belonging to the LGBTIQ community, especially young people, end up becoming homeless. In many Member States there is an inability among the authorities to provide social and medical services in order to support these people. Therefore, it is essential that LGBTIQ individuals benefit from safe shelters and medical services so that they can integrate into society and can find a stable and secure job.
- 3.1.9 In addition to the Commission's proposals to reform the common European asylum system, it is essential that the European Union provides funds for judges, prosecutors and border guards, professionals working in immigration services and interpreters, in order to receive training to understand the specific needs of vulnerable applicants for international protection, including LGBTIQ individuals.

- 3.1.10 In this regard, the EESC considers it essential to limit the application of migrant return policies at the borders of the EU, taking into account the fact that many of these people are fleeing from persecution in their countries of origin on grounds of sexual orientation, identity/expressed gender and sex characteristics. Being returned without giving them the opportunity of requesting international protection violates the most fundamental human rights, international treaties and, in some cases, national laws on international protection.
- 3.1.11 In our view, the Commission should consider recognising the right to gender self-determination for trans people, thus complying with the highest international standards of respect for human rights and promoting their recognition in the Member States and by the national authorities, so that trans people can see their identity recognised without the need for a third party to have to prove it.
- 3.1.12 The European Commission should monitor access to healthcare coverage for gender affirming treatment for transgender people and engage with Member States to make full use of the possibilities of the EU cross-border healthcare framework to address any national shortcomings.
- 3.1.13 The Commission should encourage the Member States to adopt strategies at national level for the surveillance, control and prevention of sexually transmitted diseases. It is also essential in this field to prioritise funds for health professionals, and to participate in training in accordance with the recommendations of the World Health Organization (WHO) and with the 11th edition of the International Statistical Classification of Diseases and Related Health Problems (ICD-11). In addition, it is essential that the Member States encourage the exchange of experience and practices among specialised healthcare professionals of different Member States.
- 3.1.14 Member States should be encouraged to ban "conversion therapy" throughout the EU, a degrading practice with numerous repercussions on the physical and mental health of LGBTIQ individuals. In addition, Member States should be encouraged to adopt legislative measures prohibiting "intersex mutilation". This would ensure that intersex people have the right to decide for themselves whether they wish to undergo medical procedures for the assignment of a particular sex or not, and derogation from this rule would only be allowed in the context of urgent medical needs where the life of the intersex person is in danger.
- 3.1.15 The European Union funding programmes should be closely linked to and conditional on the EU values promoted in Article 2 TEU. Also, for large projects, Member States should be required to carry out an impact assessment on vulnerable groups, including LGBTIQ individuals, for projects financed by EU funds. Thus, at Member State level there should be a diversity audit for EU funding, conducted by an independent commission made up of local or central national public authorities and civil society organisations<sup>4</sup>.

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<sup>4</sup> In order to implement this measure, a body of experts needs to be formed to assess the extent to which projects implemented by Member States help vulnerable groups, including the LGBTIQ community, as well as the analysis done both *ex ante* and *ex post* on the implementation of projects financed by the European funds, based on an evaluation grid established at European level.

3.1.16 For the training of experts called upon to conduct this diversity audit within the framework of EU funding programmes, a training programme developed at European level should be rolled out to develop skills and encourage the Member States to exchange good practices on the impact of EU funding programmes on vulnerable groups, including the LGBTIQ community. To implement this measure throughout the EU, a supervisory mechanism at European Commission level needs to be established.

3.1.17 The Member States should be encouraged to implement national education and awareness-raising campaigns and programmes to reduce and combat discrimination against people with a different sexual orientation and gender identity. In this respect, national authorities should ensure that mandatory national school curricula incorporate information on human rights, including sexual orientation, gender identity and expression, with a view to preventing discrimination, prejudices and stereotypes. Furthermore, primary and secondary schools should provide comprehensive sex education whereby children and adolescents acquire the knowledge and skills to lead healthier lives and engage in equal relationships.

### 3.2 **Ensuring the safety of LGBTIQ individuals**

3.2.1 We know that in several Member States there have been referendums to amend national constitutions, aimed at restricting the rights of LGBTIQ individuals or stigmatising this category of people among the general public. Given that information flows in a cross-border area throughout the European Union, Member States need to ensure the transparency of public funding for all players involved in such referendums.

3.2.2 The EESC supports the initiative to extend the list of "EU crimes" under Article 83(1) of the TFEU to cover hate crime and hate speech, including when targeted at LGTBIQ people. It is therefore necessary for the Commission to adopt information and awareness-raising measures on this issue at European level. The Commission should launch a communication campaign with the aim of counteracting this trend and associated behaviours, promoting the equality of all its citizens. We propose that this campaign be launched at European level and that it address the problems experienced in each Member State at local level. These initiatives should be included in the framework of the EU Action Plan for Democracy. In addition, all European countries have committed to collecting data for the Organization for Security and Co-operation in Europe (OSCE) on hate crime, which can be utilised in this context.

3.2.3 The European Commission, in cooperation with the Member States, should also adopt a number of measures to combat fake news and misinformation, as well as hate speech, both online and offline. In this respect, the Commission must develop a mechanism to monitor the proper implementation of the Audiovisual Media Services Directive (DSMAV) at Member State level, but also adopt a European legislative framework to combat fake news and misinformation more easily.

3.2.4 In order to combat hate speech in the online environment we consider the Commission's actions to promote and implement the "Code of conduct on countering illegal hate speech online", signed by Facebook, Microsoft, Twitter and YouTube, extremely encouraging. This type of tool – a code of conduct to combat hate speech – should be implemented as a recommendation at



Member State level, both in the online and audiovisual space, in order to create a safe space for LGBTIQ individuals, as well as for other vulnerable groups who can easily be subjected to online harassment or hate speech<sup>5</sup>.

3.2.5 The LGBTIQ 2020-2025 Equality Strategy should be linked to the Victims' Rights Strategy 2020-2025 so that people belonging to sexual minorities can have the confidence to report the hate crimes committed against them. Thus, it is necessary to ensure continuous professional training for police officers, lawyers and magistrates in the field of hate crimes, prejudices and stereotypes, and cooperation with NGOs that provide support to LGBTIQ individuals in this field is essential.

3.2.6 The COVID-19 pandemic has shown us that most Member States are insufficiently equipped to provide emergency or short-term shelter to LGBTIQ individuals who are either victims of domestic violence, especially transgender people, or are being assaulted by their own families. Thus, the construction of shelters, safe houses and assistance centres and the provision of integrated assistance services requires the cooperation of national authorities and non-governmental organisations, and EU funding.

### 3.3 **Building inclusive societies for LGBTIQ individuals**

3.3.1 The European Commission must assume the role of guardian of European Union law, as derived from European regulatory acts and the case-law of the Court of Justice of the European Union (CJEU) for the correct and uniform application of European law in all Member States. It must step up efforts and develop extensive mechanisms to monitor the applicability of European law and decisions of the CJEU within the framework of national law and in the practices of national authorities.

3.3.2 As regards the right to free movement, one of the pillars of European law, the European Commission must develop a monitoring mechanism to ensure that the rights conferred by Directive 2004/38/EC, in particular the right to move and live freely, are recognised for all European citizens and their families, including rainbow families throughout the Union.

3.3.3 In order for all LGBTIQ persons to enjoy the right to free movement throughout the European Union, we call on the European Commission, on one hand, to develop a regulatory framework through which the notion of "family" is an autonomous one, independent of the national law of the Member States, especially in cross-border situations, and, on the other hand, to make sure that birth documents exchanged following an administrative or judicial procedure are recognised in all Member States, in the context of free movement. The European Commission should engage with Member States on facilitating registration of kinship for transgender parents according to their legally recognised gender identity, with a view to protecting these families against unwanted outing, discrimination and violence.

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<sup>5</sup> Codes of conduct should be inspired by EU values on equality, human rights, diversity and also freedom of expression, creating a group of experts to monitor the implementation and application of this working tool, but also with the involvement of civil society organisations whose sphere of activity is defending human rights and vulnerable groups.

### 3.4 **Leading the call for LGBTIQ equality across the world**

3.4.1 European institutions must assume the role of guarantor and protector of fundamental human rights in both their internal and external actions. In order for this to be fulfilled, it is necessary to work with other regional and international institutions, such as the Council of Europe and the United Nations, to secure for LGBTIQ individuals and human rights defenders the safety and equality they deserve. It is also important that, in addition to supporting measures to combat violence, hate and discrimination against LGBTIQ individuals through the Instrument for Pre-accession Assistance (IPA) in candidate or potential candidate countries, European institutions introduce these criteria in their external actions, in the field of funding to non-EU countries.

Brussels, 27 April 2021

Christa Schweng

The president of the European Economic and Social Committee

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