



**Network of socio-economic experts in the non-discrimination field
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SYNTHESIS REPORT 2010

**PART I - THE SITUATION OF LGBT GROUPS IN THE LABOUR MARKET IN
EUROPEAN MEMBER STATES**

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ABOUT THE NETWORK OF SOCIO-ECONOMIC EXPERTS IN THE NON-DISCRIMINATION FIELD (SEN)

Establishment of SEN

The Network of Socio-Economic Experts in the Non-Discrimination Field (SEN) was established in 2009 and provides the Commission with independent expertise and advice and sustained information on discrimination on the grounds of age, disability, ethnic or racial origin, sexual orientation, religion or belief and multiple grounds.

The Network of Socio-Economic Experts in the Non-Discrimination Field has been made possible by the PROGRESS programme (2007-2013). Supporting the effective implementation of the principle of non-discrimination and promoting its mainstreaming in all Community policies is one of the main objectives of PROGRESS. In particular, the aim of PROGRESS is to improve the knowledge and understanding of the situation prevailing in the Member States through analysis, evaluation and close monitoring of policies.

Topics, methodology and structure of the Synthesis Report of the SEN 2010

The SEN produces a synthesis report annually on discrimination-related topics examined during the year, based on national/country reports produced by the experts on these topics for each country. The synthesis report provides analysis of data and trends, achievements and drawbacks, including conclusions and recommendations.

In 2010 the SEN was asked to prepare country reports describing and analysing discrimination issues in the labour market for two groups: lesbian, gay, bisexual and transgender (LGBT) people and ethnic minorities. The logic behind this request is that an overview of the situation in the Member States regarding the fight against discrimination in the labour market can provide insight into the question of how the Member States are progressing towards the Europe 2020 goals.

National workshops (NWs) were held in each EU Member State to validate, elaborate and specify the findings of the draft national reports. The most important stakeholder groups represented at these national workshops included NGOs, social partners, equality bodies and the national representative in the EU Governmental Expert Group (GEG) on anti-discrimination.



In March 2010 a 'Good Practice Exchange Seminar' on public policies combating discrimination against and promoting equality for LGBT people took place in Den Haag, the Netherlands. Government representatives and experts from 14 EU Member States, including the host country, the Netherlands, plus Norway took part. The event was hosted by the Dutch Government, Ministry of Education, Culture and Science and Ministry of the Interior and Kingdom Relations [*Ministerie van Onderwijs, Cultuur en Wetenschappen; Ministerie van Binnenlandse Zaken en Koninkrijksrelaties*].¹

Government representatives and experts from 14 European countries - 13 EU Member States and Norway – took part in a good practice exchange seminar on public policies combating discrimination based on racial or ethnic origin in accessing and progressing in employment. The seminar took place in Berlin on 4-5 October 2010. The event was hosted by the German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth [*Bundesministerium für Familie, Senioren, Frauen und Jugend*].²

The results of these good practice exchange seminars are also used as input for this report.

The synthesis report is structured in two different parts. Part I presents an overview of the first theme covered in 2010: the situation of LGBT people in the labour market. Part II focuses on the analysis of discrimination against ethnic minorities in relation to employment.

¹ <http://ec.europa.eu/social/main.jsp?catId=954&langId=en>

² <http://ec.europa.eu/social/main.jsp?catId=954&langId=en>



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PART I THE SITUATION OF LGBT GROUPS IN THE LABOUR MARKET IN EUROPEAN MEMBER STATES

EXECUTIVE SUMMARY

1. In the first half of 2010 the Network of Socio-Economic Experts in the Non-Discrimination Field (SEN) collected information on the situation of lesbian, gay, bisexual and transgender (LGBT) people in the labour market. The focus of the 27 reports produced by the network experts was discrimination in access to employment and employability.

Attitudes towards LGBT people

2. The situation of LGBT people in the labour market in the Member States is greatly influenced by the general context. Public opinion towards LGBT people is very diverse within European Union Member States. Although general attitudes have improved in recent years in the majority of European Union countries, negative attitudes towards LGBT people still prevail in several of them. This leads to a high percentage of LGBT people not disclosing their sexual orientation in those countries. The Special Eurobarometer 317, *Discrimination in the EU in 2009*, supports the research findings of the national experts (in the EU 47 per cent of people think discrimination on the ground of sexual orientation is widespread in their country). One of the key messages regarding the situation of LGBT people throughout Europe is that cultural attitudes play an important role. This leads to different attitudes and levels of awareness.

Access to work and employability

3. LGBT people face obstacles in accessing employment in all EU Member States. Transgender people face particularly severe obstacles in accessing employment. There is, however, a general lack of data on the accessibility of the labour market. Policies aimed at improving access to work for LGBT people are inadequate throughout Europe. This is due not only to a lack of political will in some countries, but also to lack of knowledge about the labour market situation of LGBT people and their high level of invisibility. In contrast to other vulnerable groups there are no specific labour market programmes in place nor are LGBT issues included in national actions plans for social inclusion or employment strategies.
4. There is no data on the participation of LGBT people in activation programmes or training programmes aimed at employability and there are almost no legal cases reported which would illustrate discriminatory treatment within labour market activation programmes. We were also able to find little information about the situation of LGBT people in vocational training.



Working conditions and wellbeing at work

5. The general atmosphere in society, as well as corporate culture in the business world, is still not encouraging for LGBT people to disclose their sexual orientation. The prevailing and unquestioned hetero-normative attitudes put non-heterosexuals in the position of having to decide whether or not to disclose their sexual orientation and in both cases they have to face the consequences.
6. Several reports found that being part of the LGBT community negatively influences promotion, working conditions, salaries and career opportunities. Comparable educational backgrounds, qualifications and performance do not mean equal evaluation and career opportunities for LGBT people. The experience of discriminatory incidents differs between countries.
7. Harassment in the form of jokes, bullying, sexual harassment and threats, generally the most frequent form of discrimination, is, according to the national reports, faced by approximately a quarter of LGBT people all over Europe.
8. The situation of transgender people seems to be the most complicated throughout Europe. Only a small percentage of transgender people are able to keep their jobs when they undergo surgery in order to change their gender status.

Equality bodies, NGOs and social partners

9. Equality bodies, NGOs and social partners (trade unions and employers' organisations) can play a central role in combating discrimination in the labour market. The amount of attention each of these bodies pay to LGBT groups varies a lot between the Member States.
10. The equality bodies have a wide range of different levels of engagement for combating discrimination based on sexual orientation. Some have legal authority to accept complaints from individuals, and are also actively engaged in raising public awareness toward this kind of discrimination, while others lack this legal authority and are not engaged.
11. NGO institutional capacity in the area of LGBT issues in the Member States is not only a function of the ability of LGBT people to feel comfortable being 'out' in public and willing to come together and organise politically, but also depends on institutional and financial support provided by the state or other actors in society to make consultation with the government and society easier.



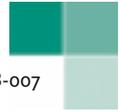
12. In only a few Member States do the social partners demonstrate sustained engagement with regard to discrimination based on sexual orientation.

Analysis

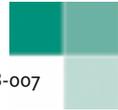
13. The main difficulty in assessing the employment situation of LGBT people is the lack of available data. In most countries there are no official data and a very limited number of research studies. Most information comes from small-scale studies or NGOs which do not have the resources needed to conduct national-level studies. As a result, it is very difficult to obtain reliable data concerning discrimination against LGBT people in terms of access to employment or self-employment.
14. Across the EU there is uneven progress towards addressing the discrimination, harassment and inequality suffered by LGBT people. In some EU Member States there is no political will to identify with and lobby on LGBT issues and, to a significant extent, LGBT rights are still considered a 'Western issue'.
15. The attitudes of churches and religious institutions still exert a considerable influence on the situation of LGBT people in some countries. The Commission plays, and should continue to play, a role as an external stimulus to greater advancement by sustaining peer learning and funding innovation.
16. Openness within a society towards different sexual orientations is the key to greater equality for LGBT people in the labour market.
17. Sexual orientation has an influence on job choices; choice of company and sector; and the decision to set up as self-employed. Several studies across EU countries reveal that LGBT people believe that it may be more difficult to openly express their sexual orientation in particular areas of the job market and the education sector, due to the dominant hetero-normative nature of most workplaces.

Scope of action for the European Commission

18. Findings of this research have underlined the key role for European Commission initiatives in fostering equal opportunities for LGBT people in the labour market. Legislation enacted in order to transpose Directive 78/2000/EC has stimulated public debate and policy action and has raised awareness specifically in countries where negative attitudes towards LGBT people prevail. Moreover, projects carried out with funding provided by the European Union Action



Programmes to combat discrimination and by PROGRESS have provided a basis for further action on the road to greater equality.



1. INTRODUCTION

1.1. The EU context

19. The EU policy and legal context for the fight against discrimination experienced by LGBT people is Article 13 of the Amsterdam Treaty 1999 (and Article 19 of the current treaties).
20. In 2000 the Framework Employment Directive (2000/78/EC) was adopted. It prohibits discrimination in employment and occupation and includes the ground of sexual orientation. The gender equal treatment directives have provided a basis for transsexual people to lodge claims of discrimination. European Union directives have played a significant role in advancing the fight against discrimination experienced by LGBT people.
21. In 2008 the European Commission proposed a new directive which would provide more complete protection from discrimination on the ground of sexual orientation. The proposal is for a directive to prohibit discrimination on four grounds, including sexual orientation, in areas beyond the labour market, such as social protection, education and access to goods and services.

1.2. An introduction to the theme

22. The economic and financial crisis, the slowdown in economic activity, rising unemployment and the crisis in public finances have impacted negatively on the implementation of progressive reforms across EU countries. In many countries the labour market has shrunk dramatically.
23. There is a lack of research across the EU on the labour market situation of sexual minorities.³ Studies carried out have mostly been conducted by NGOs and other human rights organisations, which usually have limited resources and are not in a position to conduct national or EU-level projects.

³ EU level research on LGBT issues include the following reports: European Union Agency for Fundamental Rights (June 2008): *Homophobia and discrimination on grounds of sexual orientation in the EU Member States Part I – legal analysis*; (March 2009): *Homophobia and discrimination on grounds of sexual orientation and gender identity in the EU Member States: Part II – the social situation*. European Union Agency for Fundamental Rights (November 2010): *Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity*. <http://www.fra.europa.eu/fraWebsite/research/publications/>



24. The social consequences and the socio-economic impact of discrimination on sexual minorities are not easy to determine. Discrimination in the workplace is usually a complex situation, hidden and not easy to prove and monitor.
25. Even though across the EU age is perceived as the most prevalent form of discrimination in the workplace⁴ (particularly regarding access to work and dismissals), race/ethnicity and sexual orientation also constitute characteristics on which inequality and discrimination in the workplace are founded.
26. Despite legislation, which prohibits discrimination based on sexual orientation across the EU, the reality for many LGBT people is very often one of fear of disclosing their sexual orientation in a climate of prejudice and discrimination against sexual diversity. Across EU Member States there is continuing evidence of LGBT students dropping out of school or missing classes because of harassment and bullying. The current economic climate has been narrowing employment opportunities for everyone and this is likely to have an added impact on disparities in the labour market for LGBT people who already experience disadvantage in society.
27. While in the Netherlands homosexuality was decriminalised in 1811, this situation is much more recent in countries such as Cyprus (1998) or Ireland (1993). In these two countries the European Court of Human Rights played a pivotal role in establishing the decriminalisation of homosexuality and the inclusion of sexual orientation within equality legislation. European legislation has been particularly important in terms of LGBT rights in countries with conservative legislation and constitutes an important framework from which to strengthen LGBT rights.
28. Internal migration and mobility within the EU has had an impact on attitudes towards homosexuality and LGBT people, particularly among young people who return to their places of origin after living in more 'tolerant' societies. This is the case, for instance, for young migrants from Eastern European countries and Cyprus who, after living in places such as London or Berlin, bring home more open ideas about LGBT rights.
29. In some countries religious institutions have played a pivotal role in maintaining discrimination against LGBT individuals. Religious institutions control and own schools, hospitals and other services in many countries and consequently are in a position to limit the opportunities for LGBT workers to be employed in these organisations, because it can be argued that an LGBT 'lifestyle' contradicts the 'religious ethos' of these organisations.

⁴ See Eurobarometer 2009.



30. In most countries there is no provision for transgender people that officially recognises the gender identity with which these individuals identify. In most EU countries transgender workers have very limited options to enter the labour market and retain their jobs and the majority of national legislations do not recognise gender identity as a ground of discrimination. In addition, most countries will not recognise the new gender identity of an individual unless there is a definitive surgical gender transformation from one gender to another. It may safely be stated that this group within the LGBT collective faces the most discrimination in the labour market and in society in general.

1.3. Structure of the report

31. The structure of this part of the report is as follows. It starts with a description of the general situation in the Member States for LGBT people; an overview is given of public opinion concerning LGBT people in the countries covered. In the next chapter a description is presented of the situation of LGBT people regarding access to work and employability, working conditions and wellbeing at work. This chapter is followed by an overview of the position of equality bodies, NGOs and trade unions with regard to combating discrimination against LGBT groups in the labour market.
32. A few exemplary good practices for striving for equality and non-discrimination based on sexual orientation are presented in Chapter 4. The report concludes with an analysis of the situation of LGBT people in the labour market, identification of gaps and scope for action for the European Commission.



2. CONTEXT: POSITION OF LGBT PEOPLE ACROSS EUROPE

33. The situation of LGBT people in the labour market in the Member States is strongly influenced by the general context. Awareness of the position of LGBT people in society, for example, is necessary to acknowledge discrimination in the labour market and the need for policies and positive measures. Public opinion towards LGBT people is very diverse within EU Member States. To a great extent it is dependent on the general openness of a particular society, with the media and churches and religious institutions playing a major role in influencing general attitudes.
34. Although general attitudes have improved over the course of recent years in the majority of EU countries, negative attitudes towards LGBT people are still reported in countries such as Cyprus, Greece, Latvia, Malta and Romania. In Hungary a study carried out in 2003⁵ revealed that one third of respondents viewed homosexuality as an illness, while only one tenth thought that choosing a same-sex partner was a basic right. In Poland recent public opinion research⁶ shows that as much as two thirds of Polish society believe that gays and lesbians should not be allowed to organise demonstrations and 70 per cent say that same-sex couples should not have the right to demonstrate their lifestyle publicly. This also leads to a higher percentage of LGBT people deciding not to disclose their sexual orientation in these countries.
35. Acceptance of homosexuality is generally high in North-Western European countries, such as the Netherlands, but there are also negative attitudes to report here. A study conducted in the Netherlands showed that these are mostly concentrated amongst men, less educated and religious people and are more common amongst the Turkish, Moroccan and Antillean communities.⁷
36. Some of the new EU Member States exhibit a rather reluctant attitude towards European policies in this sphere. For instance, Estonian society tends to refuse to acknowledge the very existence of any problems related to sexual orientation. There is an uncertainty about how to deal with an issue which is perceived as being imposed by the European Union and this may also lead to ambivalence towards LGBT people – with official acknowledgement of a non-discriminatory approach while passive rejection is still demonstrated in private.

⁵ Takács, J. (2005): *How to put equality into practice? Anti-discrimination and equal treatment policymaking and LGBT people*. <http://www.policy.hu/takacs/research-paper/Takacs-rps.pdf> (25.09.2010).

⁶ CBOS 2008. *Prawa gejów i lesbijek: komunikat z badań*, available at: http://www.cbos.pl/SPISKOM.POL/2008/K_o88_o8.PDF (29.03.2010).

⁷ Keuzenkamp, S., et al. (ed.) (2006). *Gewoon doen. Acceptatie van homoseksualiteit in Nederland*. Den Haag: SCP, <http://www.scp.nl/dsresource?objectid=20597&type=org>

37. A negative attitude towards homosexuality can very often be found in relation to teachers and schools, even in countries where the general attitude is more positive.
A Finnish study revealed that most teachers hide their sexual orientation and that heterosexuality as a norm is strong in schools. Bullying in schools and, as a consequence, a hesitance on the part of both students and teachers to reveal any non-heterosexual identity⁸ is also reported for countries such as Germany, Greece, Ireland, Italy, Lithuania and Malta.
38. The attitudes of politicians towards LGBT people and their rights to equal participation in all areas of society play an important role in influencing general attitudes. Public utterances of homophobic opinions by members of parliament (Cyprus, Romania) or other politicians (Bulgaria, Malta, Slovakia) have had a significantly negative impact on general public opinion towards homosexuals. In addition, the silence of institutional actors, as in Greece, or the influence of churches and religious institutions should not be overlooked as negative factors.
39. The findings of the Special Eurobarometer 317, *Discrimination in the EU in 2009*⁹ described in the following paragraphs underline the research findings of the national experts. One of the key messages regarding the situation of LGBT people throughout Europe is that cultural attitudes play an important role. This leads to different attitudes and levels of awareness depending on the national context and also the level of education, age group, political orientation and the place of residence.
40. When answering a poll, only a very small proportion of the European population would consider themselves as members of a sexual minority. The percentages of people stating that they have homosexual friends or acquaintances vary greatly depending on the national context and again reveal the importance of different societal cultures.¹⁰
41. Discrimination on the ground of sexual orientation has been perceived as being widespread, particularly in many of the Mediterranean countries.¹¹ Personal

⁸ SEN reports 1-2011 by Elizabeth Botsch, Anna Manoudi and Dimitris Karantinos, Sara Cantillon and Ernesto Vasquez del Aguila, Silvia Sansonetti, Boguslavas Gruzevskis and Vaida Jusaite and Therese Comodini Cachia.

⁹ European Commission (2009): Special Eurobarometer 317. *Discrimination in the EU in 2009*. http://ec.europa.eu/public_opinion/archives/ebs/ebs_317_en.pdf (02.10.2010).

¹⁰ Sixty-eight per cent of Dutch respondents say 'Yes', compared to only three per cent in Romania (the figures are also low for Bulgaria: seven per cent; the Baltic States: seven to 17 per cent; Poland and Hungary: both 11 per cent). Most people in Latvia (88 per cent) stated that they did not have any homosexual friends or acquaintances.

¹¹ For example, 66 per cent of Cypriots, 64 per cent of Greeks and 61 per cent of Italians and French people think that discrimination based on sexual orientation is widespread in their country.



experience of discrimination on the ground of sexual orientation is reported by a very small number of respondents. More people have witnessed discriminatory incidents on the ground of sexual orientation.

42. Knowledge of rights is still scarce amongst victims of discrimination. Only one third of EU citizens say that they know their rights in the event of their suffering discrimination or harassment, whilst 52 per cent would not know. The numbers are slightly better for citizens who define themselves as belonging to a sexual minority, with 35 per cent knowing their rights and 43 per cent not knowing them.
43. Eighteen per cent of Europeans think that the (minority) sexual orientation of a person would put him/her at a disadvantage if a company wished to hire someone and had a choice between two candidates with equal skills and qualifications. As many as 37 per cent of Cypriots and 35 per cent of Swedes are of this opinion, compared to only 11 per cent of people in the UK and 12 per cent in Bulgaria, the Czech Republic and Ireland. Taking into account the findings of this report, this makes a very interesting picture, as countries which were reported to be very open towards LGBT people, as well as countries for which a comparatively discriminatory atmosphere was described, score highly at both ends of the scale. This might mean that greater barriers on the one hand and greater awareness about discrimination on the other hand contribute to higher levels of perception in this regard, and that lower levels of awareness and smaller barriers on the other hand would mean lower levels of perception in this regard.
44. The level of attention paid by the media to issues connected with LGBT rights and the situation of LGBT people has risen in the last couple of years. This is due to the discussions which were prevalent in many Member States about the introduction of same-sex partnerships or marriages, but also comes as a result of anti-discrimination provisions entering into force and at least some cases emerging into the public arena. These developments have furthermore encouraged increasing numbers of people to disclose their sexual orientation publicly and to present their situation in order to raise awareness. Equality and gay parades and other initiatives intended to increase the visibility of LGBT people are major topics of public debate and media attention in several countries.
45. The situation of LGBT people in the labour market generally is an area where there is very little data available and very limited research. Data protection legislation, in the interests of privacy, protects the sexual identity of employees in the labour market. Moreover, public attention, political action, and



consequently also media attention and research, focus more on the issues of same-sex marriage, adoption rights and gay pride parades than on the situation in the labour market. This is despite the fact that several reports, as well as data from NGOs, have shown that the labour market is the area in which gay men and lesbian women are most vulnerable to discrimination.

However, most research is conducted in other areas, such as health, education or legal issues. The situation of transgender people in the labour market has been the subject of specific research in only a few countries.¹²

46. Protection against discrimination in the labour market is provided in all Member States and has been introduced by way of implementing Directive 2000/78/EC in most cases. This means that it is a comparatively new topic in most national contexts, which partly explains the low level of knowledge about legal remedies and the widespread under-reporting of cases of discrimination at work.
47. In some countries transgender identity is referred to as a separate category and discrimination of transgender people is described as discrimination on the grounds of gender or sexual orientation. In the majority of European countries there is no specific legal provision addressing discrimination on the basis of gender identity. The different categorisation leads to different levels of protection.

¹² Austria, Finland and Malta.



3. ACCESS TO WORK AND EMPLOYABILITY

3.1. Obstacles for LGBT people in accessing employment

48. One of the stumbling blocks in an assessment of the situation of LGBT people in accessing employment is a general lack of reliable information and data. National statistical offices do not collect any data in this field. Scientific research is also rare, as is information about court cases or cases handled by equality bodies or NGOs. Yet the national reports reveal that LGBT people face obstacles in accessing employment in all EU Member States.
49. A 2002 study on discrimination of LGB people in Estonia¹³ revealed that 10 per cent of the interviewees had experienced not being hired for a job on grounds of their sexual orientation. Similar data is provided for the Netherlands, where teachers, in particular, face difficulties in application procedures. Men were affected twice as often as women. A testing study¹⁴ conducted in Greece showed that the chances for gay men (or men presumed to be gay) of being invited for a job interview is 25 per cent lower than for straight men. However, once they overcome this hurdle, wage differences, for example, were insignificant.
50. Recent French research,¹⁵ in contrast, showed that the process of hiring was not considered to constitute a major barrier, as long as sexual identity was hidden. In some sectors, as in arts or fashion, being gay or lesbian may be considered to be trendy and could constitute an asset. This might explain why 20 per cent of gays and lesbians opted for professions or companies perceived to be gay-friendly, or set up their own company (14 per cent), and 43 per cent chose an environment known to be less homophobic, usually organisations in urban and highly populated towns. According to a German study,¹⁶ 70 per cent of lesbian and gay respondents made use of information on gay-friendly companies when applying for a job. LGBT people tend to move to bigger cities in the UK because of the higher number of (accessible) job opportunities in urban areas. The media, hotel and restaurant industry, culture and entertainment, marketing, advertising and distribution are considered to be the most open sectors.

¹³ Kotter, L. 'Sexual orientation discrimination in Estonia', in ILGA-Europe (2002) *Sexual orientation discrimination in Lithuania, Latvia and Estonia*, 2002.

¹⁴ Drydakos, N. (2007), *Dual life for equal labour? Sexual orientation discrimination in the Greek labour market*, Department of Economics, University of Crete, B.E.N.E.Tec, available at http://www.soc.uoc.gr/econ/wpa/docs/Sexual_Orientation_Discrimination_in_Greece_Drydakos.pdf

¹⁵ Falcoz, C. (2008), *Homophobie dans l'entreprise*, Studies and research by the HALDE, La documentation française. http://www.halde.fr/spip.php?page=article&id_article=12140

¹⁶ Frohn, D. (2007), *Out im Office?!, Sexuelle Identität, (Anti-) Diskriminierung und Diversity am Arbeitsplatz*. Universität zu Köln, Psychologisches Institut. http://blog.daimler.de/wp-content/uploads/2009/09/studie-out-im-office_erg-zus-fass_df.pdf



51. Policies aimed at improving access to work for LGBT people are either lacking or inadequate in all EU Member States. This is due not only to a lack of political will, but also to a lack of knowledge about the labour market situation of LGBT people and their high level of invisibility. In contrast to other vulnerable groups there are no specific labour market programmes in place, nor are LGBT issues included in national action plans for social inclusion or employment strategies.
52. Although there are only a few court cases mentioned in the national reports, those reported show the relevance of prejudice and societal attitudes in relation to discriminatory treatment. A case in point is an example from the Czech Republic in which an applicant for a job as a masseur in a spa was rejected openly because of his sexual orientation – the potential employer was afraid of any inappropriate behaviour towards guests.
53. An example of indirect discrimination comes from Cyprus. People applying for public service positions (as well as for registration with the social security system) have to produce an 'army release certificate'. In the past, when the sexual orientation of new recruits was revealed, they were released from their army obligations and were given a certificate that specified 'personality disorders' as the cause, with a negative effect on their employment opportunities. Currently, LGBT people are not automatically released from the army if they reveal their sexual orientation. However, they are put under enormous pressure, discriminated against and bullied while in the army. One way out of this for LGBT recruits is to ask of their own accord to be released from the army for 'psychological reasons', in which case they end up with the same 'personality disorders' release certificate and therefore the same negative effect and consequences for their employability as before the change of practice. The situation is similar in Greece, where a presidential decree excludes from military service all persons 'suffering from psychosexual or sexual identity disorders', a category which in practice is applied to gay men and lesbian women.
54. Transgender people face particularly severe obstacles in accessing employment. According to a Finnish study,¹⁷ transsexual and transgender people start their working life much later than others. This is found to be due to more difficulties in finding a job but also to the fact that the realisation of one's gender identity, finding a 'place in the world', postpones the beginning of life 'as a working adult'. Moreover CV histories may cause problems, e.g. if someone who is now a

¹⁷ Huuskam, M. *Trans people and gender-variant people at work*, in Lehtonen (ed.) (2002) *Sexual and gender minorities at work*. STAKES, National Research and Development Centre for Welfare and Health, p. 26. See www.valt.helsinki.fi/sosio/tutkimus/equal (accessed April 2010).



woman has completed military service or someone who is now a man took maternity leave at some point in their career.

55. In France and Italy the main obstacle for transgender people is the challenge to obtain identity or social security papers reflecting their current appearance, as the issuing of such papers is dependent on a judgement acknowledging a definitive surgical procedure. Unwillingness to issue new diplomas by educational institutions and, subsequently, difficulties in applying for jobs is also reported in the Netherlands. In Spain transsexual migrants in particular face difficulties in changing their names on passports and residence permits, which undermines their access to employment. According to the main LGBT NGO in Greece, the difficulties in finding a job mean that the majority of transsexuals end up in prostitution.
56. The Danish report points out that sexual orientation is considered to be a factor of potential discrimination in access to employment. However, it is considered to be a less important factor than a candidate's gender, age, ethnicity or religion. As a result, recruitment strategies aiming to create a diverse workforce are not aimed at LGBT people. Information provided by a French NGO (SOS Homophobia) reveals that 15 per cent of cases reported relate to the workplace. However, no programmes or policies are implemented to counter this type of discrimination, neither by companies, unions or public services, which makes it the forgotten discrimination of diversity management.¹⁸
57. In contrast to this, in Germany LGBT people are increasingly being targeted by company diversity management programmes, some of which have started to aim explicitly to place themselves as employers of choice for LGBT people, for example by producing flyers and participating at recruitment events for these specific target groups. In March 2010 in Munich for the first time in Europe specific career days for gays and lesbians (Milkmesse)¹⁹ were organised, where LGBT-friendly companies could present themselves and be accessed more easily. LGBT networks within companies are used as career networks for communicating job vacancies and career information.

¹⁸ Falcoz, C. (2007), 'Les discriminations oubliées: le cas de l'orientation sexuelle', in Barth, I. and Falcoz, C. (ed.), *Le management de la diversité*, L'Harmattan.

¹⁹ www.milkmesse.de. The Milk Fair was organised by Stuart B. Cameron and Anders Wikberg. The participating companies were: Accenture Deutschland GmbH, Axel Springer AG, Cisco Systems GmbH, Deutsche Bank AG, Ford-Werke GmbH, IBM Deutschland GmbH, SAP Deutschland AG & Co. KG, Volkswagen Bank Financial Services AG, Google Germany GmbH, MLP AG, Bundesagentur für Arbeit, Career Journal, Flamingo Languages, Völklinger Kreis e.V., Wirtschaftsweiber e.V., LSVD Bayern e.V., Jackwerth Verlag, QueerCampus und Gayvention.



3.2. Participation in labour market activation and training programmes

58. There is no data on the participation of LGBT people in activation programmes or training programmes aimed at employability. Two initiatives aiming at the inclusion of transsexual people in the labour market are reported for Italy.
59. There are hardly any cases reported which would illustrate discriminatory treatment within labour market activation programmes. The Equal Treatment Commission in Austria had to decide on one case of harassment on grounds of sexual orientation in a training course. Another case is reported in the UK, where a Job Centre employee successfully claimed against his employer for making assumptions based on stereotypical views of his sexual orientation and about his relationships with a client.
60. No country reported the existence of specific training programmes for members of the LGBT community or even a labour market programme targeted at a variety of vulnerable groups, including LGBT people.
61. Explanations for the lack of specific training or labour market activation programmes might lie on the one hand in a lack of data about the inequalities faced by LGBT people in the labour market, but may also be due to the fact that LGBT people are not considered as belonging to a socially vulnerable group or a group experiencing labour market vulnerability as such.

3.3. Vocational education and training

62. There is a general lack of information and reliable data about LGBT people in vocational education and/or training.
63. Finnish studies²⁰ indicate that the strong focus on a 'heterosexual norm' in schools leads to delayed development or self-acknowledgement of non-heterosexual identities. Emotional affairs and social relationships are postponed to a period when school and apprenticeships have been completed. Information from several other countries, for example Slovenia, confirm these findings, stating that the situation of sexual minorities is not a topic in schooling or is treated as something negative or unacceptable. The only country for which an inclusion of issues of sexual orientation in (school) curricula is confirmed is Spain, where such issues are part of a recently introduced subject of 'education

²⁰ Lehtonen, J. (2004). *Näkymättömät nuorten mallit – seksuaalivähemmistöön kuuluvat opettajat*. Teoksessa Lehtonen, J. & Mustola, K. (toim.) "Eihän heterotkaan kerro..." Seksuaalisuuden ja sukupuolen rajankäyntiä työelämässä. ESR Tutkimukset ja selvitykset 2/04. Helsinki: Työministeriö, pp. 223-238.



for citizenship'. However, it is also the case in Spain that this issue is not considered to be an essential element of vocational training and a lack of awareness and understanding by many teachers is reported.

64. According to the 2008 French HALDE study,²¹ 5.4 per cent of respondents felt that they had been refused, on a discriminatory basis, a request for a training session and 10.2 per cent had been asked questions about their sexual orientation in training sessions.
65. In Malta a case of a lesbian women is reported who had been confronted in a workshop for trainee therapists with a trainer describing 'being gay' as constituting a 'psychological illness'. The same trainer was deemed competent to set up an examination for becoming a therapist.
66. An interesting initiative, PACE, offering advice for LGBT people in the job market, is reported for the UK. The UK report also refers to a European Court of Justice (ECJ) judgement from 1994 which ruled that it is an obligation of employers to offer training to people who are "intending to undergo, are undergoing or have undergone gender reassignment", after which transgender people were included in the 1999 Sex Discrimination Act.

²¹ Falcoz, C. (2008), *Homophobie dans l'entreprise*, Studies and research by the HALDE, La documentation française. http://www.halde.fr/spip.php?page=article&id_article=12140



4. WORKING CONDITIONS AND WELLBEING AT WORK

67. The general atmosphere in society, as well as the corporate culture in the business world in the EU Member States, is still not encouraging for LGBT people to disclose their sexual orientation. The prevailing and unquestioned hetero-normative attitudes put non-heterosexuals in the position of having to decide whether or not to reveal their sexual identity, and in both cases they have to face the consequences.
68. In many Member States people report that they have to hide their sexual identities. In Estonia, for example, 64 per cent of male and 46 per cent of female gay, lesbian or bisexual people interviewed for a study said that they felt it was necessary to hide their sexual orientation in all jobs.²² The Netherlands is the country with the highest percentage of LGBT people who are open about their sexual orientation (74 per cent at work or at school). The pressure to reveal sexual identity is also high, as employees are expected to be open. However, several studies indicate that many Dutch teachers hide their sexual identity.
69. Findings from German and UK studies suggest that wellbeing at work for LGBT people depends largely on the extent to which there is openness regarding sexual orientation. Anti-discrimination guidelines and workplace agreements implemented as part of strategies to manage diversity are favourable factors for the development of structural and cultural changes within organisations. The extent of openness has a significant influence on readiness to reveal sexual identity in the workplace. Disclosure in sectors such as the military and churches and other religious organisations is therefore much lower than in social organisations, marketing, sales, distribution and NGOs.²³

²² The situation is similar in Finland, Germany and Lithuania, where half of a group of LGBT respondents said that they would hide their sexual orientation or gender identity from their co-workers. Nearly 70 per cent of people surveyed for the 2008 HALDE study in France stated that they had hidden their homosexuality at least once in the workplace, 78 per cent had used neutral wording to talk about their private life, 33 per cent had passed themselves off as standard heterosexuals and 18 per cent went as far as inventing a partner of the opposite sex. As for Italy, only 24.1 per cent of the homo- and bisexuals do not conceal their sexual identity in the workplace and 85.6 per cent of gay and lesbian Poles hesitate to disclose their sexual orientation at work. In Portugal only a minority of supervisors and managers (25 per cent) and co-workers (28 per cent) are aware of the sexual orientation of their LGBT employees.

²³ Köllen, Th. (2010), *Bemerkenswerte Vielfalt: Homosexualität und Diversity Management. Betriebswirtschaftliche und sozialpsychologische Aspekte der Diversity-Dimension „sexuelle Orientierung“*, Munich, p. 138.

70. Furthermore, Irish studies show that the greater the support for inclusion and equality for LGBT people, the lower their levels of 'minority stress'²⁴ and that being able to work in a safe environment, where individuals can be open about their sexual identity, is key to wellbeing in the workplace.²⁵ Research from Italy confirms this, adding the fact that hiding aspects of their identity has a negative impact on the productivity of LGBT people.²⁶
71. In Germany the Christian churches or institutions belonging to them are the second largest employer after the public service, with about 1.3 million employees. The German equal treatment legislation, the Equal Treatment Act [*Allgemeines Gleichbehandlungsgesetz – AGG*], has interpreted the possibility of providing exceptions to the non-discrimination clause very broadly and, as a result, enables these institutions to request their employees to accept the ethos of Christian ideology in their private lives as well. Dismissal without prior notice of people living their sexual identity openly is common practice by the Catholic Church.²⁷
72. Several national reports²⁸ have found that being part of the LGBT community negatively influences promotion, working conditions, salaries and career opportunities. Comparable educational backgrounds, qualification and performance do not mean equal evaluation and career opportunities for LGBT people. Cases of dismissals on grounds of sexual orientation are reported in Latvia and Poland, in the latter case 10.3 per cent of LGB respondents to a survey²⁹ had experienced discrimination in the workplace, 23 per cent of whom reported dismissals on grounds of their sexual orientation.
73. The experience of discrimination differs between countries. During qualitative research in the Czech Republic gay men reported being affected by discriminatory harassment (homophobic remarks, jokes, insults and verbal abuse) in the workplace significantly more often than lesbian women.

²⁴ Mayock, P., Bryan, A., Carr, N., & Kitching, K. (2009). *Supporting LGBT lives: A study of the mental health and well-being of lesbian, gay, bisexual and transgender people*. Dublin: Gay and Lesbian Equality Network.

²⁵ Denyer, S., Howard, O., McEvaoy, O., & Hutachain, C. O. (2009). *Burning issues: Listening to the voices of the LGBT community in Ireland*. Dublin: National Lesbian and Gay Federation (NLGF).

²⁶ See for example <http://www.arcigay.it/lavoro-gay-sono-sempre-discriminati> and information provided by an interview with Maria Gigliola Toniollo – Director of the New Right Section of the Italian General Confederation of Labour (CGIL) (26.09.2010).

²⁷ *Arbeitgeber Kirche. Von Nächstenliebe keine Spur*. http://www.focus.de/karriere/arbeitsrecht/tid-16756/arbeitgeber-kirche-von-naechstenliebe-keine-spur_aid_468469.html; accessed 07/01/10.

²⁸ National reports for Cyprus, Denmark, Estonia, France, Greece and Hungary drafted for the purpose of this study. Unpublished.

²⁹ Abramowicz M. ed. (2007) *Sytuacja społeczna osób biseksualnych i homoseksualnych w Polsce. Raport za lata 2005 i 2006*, Warszawa: Kampania Przeciw Homofobii, Lambda Warszawa, available at: http://www.kph.org.pl/images/stories/raporty/raport_sytuacja_bi_homo_2007.pdf (accessed 29.03.10).



On the other hand, lesbians, according to data from France,³⁰ Germany and Austria are more often confronted with barriers to their career development, as they are also subject to the glass ceiling which women experience, reflecting multiple discrimination. LGBT networks are considered as valuable to establish group interests, however, they are perceived as male-dominated by lesbians in Germany.³¹ Research in Germany and in Greece revealed that younger and older people are more affected by discrimination or prejudice at work based on their sexual orientation. Greek data also shows that discrimination is perceived as more common in rural areas than in urban areas. Swedish research confirms the results of the Greek research for gay men but finds that lesbian women are more successful in advancing their career opportunities than heterosexual women.³²

74. Findings from the national reports show that harassment in the form of jokes, bullying, sexual harassment and threats, generally is the most frequent form of discrimination of LGBT people and is still wide-spread in Europe. Even physical violence is not uncommon, having been experienced by nine per cent, for example, in Lithuania.
75. In a report by the Irish Equality Authority³³ 10 per cent of interviewees said they had missed work because they were afraid of being hurt or felt threatened because of their LGB identity. This is supported by a 2009 study,³⁴ which also introduces the concept of 'minority stress', which characterises the situation faced by LGBT people in the workplace as well as in schools. Information provided by an NGO in Luxembourg reveals that some people even regularly change their jobs or leave or settle abroad in order to avoid a forced disclosure of their sexual identity.
76. Latvian research³⁵ found that revealing one's sexual orientation to colleagues has a significantly negative influence on their attitudes. Twenty-five per cent of survey participants confirmed that they would dissociate themselves from an

³⁰ SOS Homophobia (2008); Lunghi C. (2007); Watremez, V. (2007).

³¹ The L-World in Business, <http://wirtschaftsweiber.de/oeffentlicher-bereich/home/the-l-world-in-business/der-workshop.html>

³² Ahmed, A. M.; Andersson, L. & Hammarstedt, M. (2009): *Sexual orientation and occupational rank*. Working paper. Linnaeus University, Department of Economics and Statistics. Växjö <http://www.duochjobbet.se/viewNews.do?NewsID=1625>

³³ Equality Authority (EA) (2002). *Implementing equality for lesbians, gays and bisexuals*. Dublin: EA.

³⁴ Mayock, P., Bryan, A., Carr, N., & Kitching, K. (2009). *Supporting LGBT lives: A study of the mental health and well-being of lesbian, gay, bisexual and transgender people*. Dublin: Gay and Lesbian Equality Network.

³⁵ Tīrgus un sabiedriskās domas pētījumu centrs SKDS, aptauja "Attieksme pret seksuālajām minoritātēm", Rīga, 2009. gada decembris.



individual, having learned about their homosexuality, and four per cent even said that they would try to have the individual dismissed.

77. Discrimination in terms of different treatment of same-sex couples in relation to social benefits, such as company pension systems, is reported for Germany, where bringing such cases to court has not been successful. There is also evidence from Italy and Poland of neglecting the ECJ Maruko³⁶ decision, which rules that there is an obligation to treat equally with regard to pensions survivors of same-sex couples who have lived in a partnership comparable to marriage and survivors of married couples. Lack of equal treatment in this respect is, however, frequently due to the non-recognition of same-sex partnerships.
78. The situation of transgender people seems to be the most complicated throughout Europe. Only a small percentage of transgender people are able to keep their job when they undergo surgery in order to change their physical sex. Transsexuals frequently quit their jobs in Germany before disclosing their sexual identity because they are afraid of bullying, displacement and/or dismissal. In the Czech Republic the change of physical sex has led to refusals to duplicate educational diplomas or to acknowledge pre-surgery personal histories (e.g. for bank account management). In the UK one in four actually leave their workplace because of negative experiences and 42 per cent cite their work environment as a reason for not 'transitioning'.³⁷ Without surgery and/or a change of documents, on the other hand, transgender people are confronted with the problem that their documents do not match their real sexual identity.
79. Under-reporting of cases of discrimination on grounds of sexual orientation is high (for example, in Ireland and Lithuania), which is presumed to be related to the invisibility of sexual identities and people's fear of disclosure, as this would entail the risk of further discrimination or dismissals. An increasing number of cases have been reported in Spain, where several cases of homophobically motivated dismissals were brought to court and companies such as Alitalia, a radio station in Galicia, the Corte Ingles and the Guardia Civil were confronted with verdicts that confirmed discrimination, established compensation payments and/or even reintegration into the company.
80. LGBT networks improve the situation of LGBT community members in the workplace. They contribute to more openness towards LGBT identities, provide for exchange of experience, visibility and safety. Examples are most common in international companies throughout Europe and successful networks within

³⁶ ECJ C-267/06 Tadao Maruko v Versorgungsanstalt der deutschen Bühnen.

³⁷ a:gender (2007) *Gender identity and employment monitoring: best practice recommendations*, a:gender, London.



universities (for staff members as well as for students) are reported in Ireland. In Spain more and more companies are starting to pay greater attention to anti-discrimination legislation and work environments, a development which has positive consequences for the situation of LGBT employees.

81. Insecurity about how to handle specific needs of or harassment towards transgender people in transition was revealed by research in Malta,³⁸ showing that a high percentage (58.1 per cent) of employers were aware of the need for protection, but when asked how they would ensure this the majority did not answer the question.

³⁸ ESF 60; Baldacchino, R. Grech, C. Calleja, G. (ed) (2008) *The inclusion of transgender individuals into the labour market – a research study*
<http://www.maltgayrights.net/files/Trans%20Research%20Study.pdf>



5. EQUALITY BODIES, NGOs AND SOCIAL PARTNERS

5.1. Introduction

82. Equality bodies, NGOs and social partners (trade unions and employers' organisations) can play a central role in combating discrimination in the labour market. The extent to which each of these bodies pays attention to LGBT groups varies considerably between the Member States.
83. This report does not present an extensive overview of the various ways in which these stakeholders are involved in improving the situation for LGBT people, but will provide a significant summary. The institutional approach to combating discrimination based on sexual orientation is divided into three parts: 1. equality bodies; 2. LGBT NGOs; and 3. social partners – unions, employer confederations, as well as tripartite social-economic councils.³⁹
84. In this section we distinguish three groups of countries for each type of institution: those with a high level of engagement, those with a low level of engagement and an intermediate category.

5.2. Equality bodies

85. Regarding equality bodies (the national-level body established by the Member States pursuant to the EU anti-discrimination directives to address complaints of discrimination), the country reports show different levels of engagement.⁴⁰ In some countries equality bodies have legal competency to address cases of discrimination based on sexual orientation and have been active in raising awareness of discrimination faced by LGBT people in society. This can be considered a high level of engagement.⁴¹ In other Member States the equality body does not have legal competency and there is little awareness-raising on the subject of sexual orientation. Some countries fall somewhere between these two broad categories. Examples showing these different levels of commitment are presented below.

Legal competence of Equality Body in issues of sexual orientation

³⁹ Councils composed of labour unions, employers' organisations and government.

⁴⁰ EU Directives 2000/43/EC, 2004/113/EC and 2006/54/EC oblige Member States to set up equality bodies, but only for the grounds of race and gender.

⁴¹ See for a full overview of types of equality bodies, their roles and mandates: European Commission: *Study on equality bodies set up by the EU Member States under Directives 2000/43/EC, 2004/113/EC and 2006/54/EC* (to be published).



86. Equality bodies in the following countries are legally competent for as well as engaged in combating discrimination based on sexual orientation.
87. In Austria, the Ombudsman for Equal Treatment (OET) is competent to assist victims of discrimination on grounds of sexual orientation and may pass cases on to the (similarly competent) Equal Treatment Commission (ETC), if it concludes that unlawful discrimination has probably occurred.
88. In Belgium there are two equality bodies at the federal level. The first, the Institute for the Equality of Women and Men, combats discrimination based on gender and gender identity.⁴² The second, the Centre for Equal Opportunities and Opposition to Racism has competency for other grounds of discrimination, including sexual orientation. They recently financed two studies on the situation of LGBT people in the labour market, one focused on those with a high socio-professional profile and the other on manual workers.
89. In Denmark the Board of Equal Treatment is competent to address discrimination based on all six grounds within the labour market, but only on the grounds of gender and race or ethnicity outside the labour market.
90. Estonia has two equality bodies, the Commissioner for Gender Equality and Equal Treatment and the Chancellor of Justice, an ombudsman-like institution.
91. In France, the HALDE is the equality body, which receives complaints related to all grounds of discrimination, including that of sexual orientation. The HALDE recently released two important studies, one legal and one sociological, concerning homophobia in the workplace.
92. In Germany, the Federal Anti-discrimination Office (ADS) has authority to address complaints on all grounds of discrimination, including sexual orientation.
93. In Ireland, the Equality Authority (EA) is the statutory body which combats discrimination and serves as liaison between the government and other public and private institutions. It has produced reports and publications on the situation of LGBT people.
94. The DO is the equality body ensuring LGBT equality in Sweden. Another important body is the Swedish Work Environment Authority, an administrative agency charged with monitoring the work environment in Sweden. The DO has promoted the idea that this Authority should be responsible for monitoring the progress of active measures against discrimination in working life, by including

⁴² Motmans, J. et al. (2009), *Being transgender in Belgium: Mapping the social and legal situation of transgender people*, Institute for the Equality of Women and Men, Brussels.



this focus when health inspectors are present at the workplace level.
Discrimination based on gender identity and transgender identity is recognised in Swedish legislation

95. In Luxembourg, the Centre of Equal Treatment (CET) has competency for discrimination based on sexual orientation.
96. In the Netherlands, the Equal Treatment Commission (CGB) is competent to hear complaints on all grounds of discrimination, including sexual orientation. This body has commissioned research on the treatment of LGBT people in various sectors of the economy.
97. In the UK, the Equality and Human Rights Commission (EHRC) is in charge of all monitoring and enforcing equality based on all grounds, including gender identity. There is a system of 'champions' for each equality ground, including sexual orientation. The Commission has sponsored research related to the grounds of sexual orientation, in particular the report, *Beyond tolerance*. One of the most significant recent activities of the EHRC was a review of transgender research.

Engagement of Equality Bodies in sexual orientation issues

98. The following countries have equality bodies which are moderately active in combating discrimination based on sexual orientation.
99. In Bulgaria, the equality body, the Commission for Protection against Discrimination is mandated to provide protection on all six grounds, including sexual orientation. They are organised into sub-sections and the five specialised sub-committees cover disability, age, sexual orientation, sexual harassment and health status.
100. In the Czech Republic, the Ombudsman is competent to hear discrimination complaints based on the ground of sexual orientation.
101. There are three different equality bodies in Greece, with competencies based on whether the alleged discrimination is in the public or private sector and whether in employment or other areas. The Ombudsman hears complaints when anti-discrimination legislation is breached by public bodies, the Labour Inspectorate in the case of private sector employment and the Equal Treatment Committee for the private sector outside the employment context.



102. The equality body in Hungary is the Equal Treatment Authority. The authority has noted that many people file complaints before receiving legal advice, so the body provides information on the availability of free legal advice.
103. In Italy UNAR is the equality body, created by the Prime Minister's Office with the remit of opposing discrimination on the grounds of race and ethnic origin, but now also covering equal treatment in relation to other forms of discrimination. UNAR has conducted anti-discrimination campaigns, including some focused on sexual orientation and gender identity.
104. The Ombudsman's Office is the equality body in Latvia. When assessing its influence, it may be said that although it has extensive authority on the basis of legislation, in reality it is focused more on reviewing complaints submitted than on activities initiated by the office itself, such as outreach work to promote non-discrimination in society.
105. In Lithuania the Office of the Equal Opportunities Ombudsman is competent to hear complaints related to discrimination based on sexual orientation. While the Office includes the ground of sexual orientation in projects, there were no individual projects related to LGBT people.
106. The equality body in Slovakia is the Slovak National Centre for Human Rights (SNSLP). This body has conducted some research, for example a survey to gauge the perceptions of Slovaks to those with a different sexual orientation.
107. In Poland there is an ombudsman, the Commissioner for Civil Rights Protection (RPO), and the office is empowered to receive complaints concerning human rights and freedoms, including protection against discrimination. In 2010 the National Labour Inspectorate (NLI), which monitors compliance with the Labour Code, including anti-discrimination, began for the first time to collect statistics involving discrimination on the grounds of sexual orientation and identity.
108. The following Member States have equality bodies with a somewhat lower level of engagement with regard to combating discrimination based on sexual orientation.
109. In Cyprus the Equality Body has the mandate to investigate complaints based on discrimination in employment on the ground of sexual orientation, but the competency to act outside the field of employment is not clear, based on the relevant law. However, the equality body has published reports which concern discrimination beyond employment. The Equality Body is able to impose very low fines for cases of discrimination in employment, but there are no enforcement mechanisms in the relevant law nor power to award compensation to victims.



110. In Finland the Ombudsman for Equality monitors the realisation of equality between the sexes, but has no legal competence in the area of discrimination based on sexual orientation. Although health and safety authorities have been given responsibility to monitor discrimination on the grounds of sexual orientation, they have seldom received training to investigate and pursue incidents of discrimination.
111. In Malta the National Commission for the Protection of Equality between Men and Women (NCPE) does not have the power to consider complaints related to discrimination based on the ground of sexual orientation. The NCPE has undertaken projects raising the awareness of all six grounds of discrimination covered by the EU directives These include the projects Voice for All and MOSAIC.
112. The Commission for Citizenship and Gender Equality (CIG) in Portugal focuses on discrimination based on gender. Since the European Year of Equal Opportunities in 2007 it also began to focus on issues surrounding sexual orientation. However, CIG's right of intervention is limited and its legal mandate does not include addressing issues related to sexual orientation.
113. In Romania the National Council for Combating Discrimination (NCCD) is the equality body with powers to address discrimination based on sexual orientation. The activities of the NCCD have been blocked since November 2009, since only four out of nine members of the steering committee had mandates, after the expiry of the mandates of the other members. The Romanian Parliament has continually postponed the hearings to appoint new members.
114. The equality body in Slovenia is the Governmental Office for Equal Opportunities. There has been difficulty in the office fulfilling its duties, due to vacancies in the position of Advocate of the Principle of Equal Treatment. There is also a Human Rights Ombudsman who has undertaken work to raise awareness of discrimination, including that based on sexual orientation, but the work of this office cannot replace that of the Advocate.
115. In Spain various federal, regional and local administrations are involved in non-discrimination. However, at the federal level the country lacks an equality body competent to address discrimination on grounds of sexual orientation. The Council for the Promotion of Equal Treatment focuses on discrimination on grounds of race or ethnic origin. The powers of the Ombudsman, although

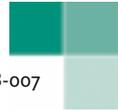


applicable to all grounds of discrimination, extend only to public authorities. Some regions have developed more competencies than others, for example Catalonia has a programme to address equality for LGBT people.

116. As we can see there is great variation across the Member States in the degree of engagement by equality bodies to address discrimination based on sexual orientation. Some equality bodies have not been given the legal authority to receive complaints from people who believe they have suffered discrimination in employment on grounds of their sexual orientation. Other equality bodies have been given extended powers to combat discrimination, including that based on sexual orientation, beyond the field of employment.
117. The work of equality bodies is critical to the efforts of Member States to combat discrimination based on sexual orientation, because they are often the only institutional body within the Member State charged with addressing such discrimination. However, the institutional capacity of equality bodies may not be sufficient to contribute to putting principle into practice and reducing barriers for LGBT people in access to their rights. The institutional funding of these bodies to address all six grounds of discrimination protected at EU level, including sexual orientation and gender identity, is often reported to be insufficient.

5.3. Non-governmental organisations (NGOs)

118. The situation of NGOs working in the area of LGBT is quite different across the EU. There are countries where LGBT people can feel comfortable being 'out' in public and be willing to come together and organise politically in NGOs, but also receive institutional and financial support from the state or other sources to facilitate consultations with the government and other actors in society. At one end of the spectrum there are countries where LGBT organisations are both engaged with the wider LGBT community and able to effectively lobby and consult with the government and society. At the other end of the spectrum are the countries with a relatively weak LGBT NGO community, perhaps dependent on short-term project funding, with difficulty building institutional capacity and making a long-term impact on the LGBT community and wider society. Information and examples of activities in each country can be found in an Annex to this report.
119. In Ireland the Gay and Lesbian Equality Network (GLEN) recently released a report on the role of diversity and equality in the context of the international competitiveness of the Irish economy. It stresses the growing link between equality, diversity and economic success.



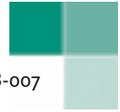
120. In Spain, FELGTB is active at the federal level. The organisation notes that for most cases of discrimination based on sexual orientation at work, NGOs or the social partners are not the first port of call, but rather employees tend to undertake legal proceedings with a lawyer.
121. The involvement of LGBT NGOs has been critical for organising and providing information to the LGBT community and providing access to rights, as well as raising issues and concerns with government and wider society regarding discrimination based on sexual orientation. LGBT NGOs in some countries have a very difficult time organising, due to homophobia in the society and the risks related to 'coming out', and could benefit both from trans-national assistance from LGBT NGOs abroad and from EU assistance, in order to build institutional capacity. LGBT NGOs have benefited from forming coalitions with NGOs organised around other grounds of discrimination and such cooperation should be further encouraged by Member States and the EU.

5.4. The social partners

122. There are Member States which have trade unions and employer federations and (in some cases) tripartite social-economic dialogue mechanisms with a sustained engagement in relation to discrimination based on sexual orientation. There are also countries with little or no engagement by such actors. In between are countries where some engagement by individual unions, employer federations or perhaps private companies is noted.

Information on the situation in each country can be found in an Annex to this report.

123. While trade unions in a few of the Member States have been active for decades in combating discrimination based on sexual orientation, many do not have any experience at all of combating discrimination. Some initiatives, in which trade unions assist unions in other Member States to begin to address equality and non-discrimination, are very helpful in learning and sharing good practice across borders. Some trade unions have made positive policy statements committing themselves to combating discrimination based on all grounds. It is important to ensure that these general policy statements get translated into action on the ground, for example by establishing offices with trained personnel able to address concerns related to discrimination and greater awareness-raising among trade union members of the union's engagement and services in this area. Employer associations have not been very engaged in the field of anti-discrimination, especially in the area of sexual orientation. In some Member States, LGBT groups within individual corporations have taken the lead to raise awareness among employers of the need to address equality and non-



discrimination, so that each employee can achieve his or her full potential within the company.



6. GOOD PRACTICE

124. The Good Practice Exchange Seminar on public policies combating discrimination against and promoting equality for LGBT people (Den Haag, the Netherlands, March 2010)⁴³ revealed the following challenges for the Member States:
- the uneven spread of endeavour on the issue underlines the need for sustained peer learning;
 - the dominant perspective is ad hoc project work. There needs to be a move towards comprehensive national action plans;
 - equal treatment legislation is the key driver, but there is a need for better implementation and a problem with under-reporting of cases of discrimination by LGBT people themselves; and
 - very little action is being taken specifically on transgender issues.
125. There is a lot of variety in the number of good practices the national experts were able describe in relation to the issue of LGBT and access to and progress in the labour market. For some of them it took a great deal of effort to find information on good practices and exemplary projects. Indeed, a few were unable to find any at all. The good practices we will present here have been selected based on the ability to transfer these experiences to other states, as well as for their innovative quality and impact on the target group and broader society. We have also attempted to choose good practices from a range of countries, those with public opinion more supportive of anti-discrimination measures and LGBT issues in particular and those with a more sceptical public.
126. In the UK the NGO Stonewall has been involved in creating a National Benchmarking Exercise to assess 352 organisations in the UK from the public, private and third sector with regard to efforts to support LGBT staff. This is a major undertaking, with a focus also on large and medium-sized employers with substantial numbers of employees. This kind of qualitative and quantitative research would be a significant challenge to conduct across Europe. It could also be broadened to include issues surrounding gender, ethnicity or race, religion or belief, age and disability.
127. In Poland there has been some interesting progress involving trade unions around the issue of discrimination based on sexual orientation. The All-Poland Alliance of Trade Unions [*Ogólnopolskie Porozumienie Związków Zawodowych – OPZZ*] recently appointed a Gay and Lesbian Liaison Officer to provide assistance and raise awareness within the union. The Campaign Against Homophobia [*Kampania przeciw Homofobii – KPH*] held a major conference in

⁴³ Government representatives and experts from 14 EU Member States, including the host country, the Netherlands, plus Norway, took part. See also Footnotes 2 and 3.



Warsaw, focused on the workplace, with the main objective being to involve trade unions in the Polish anti-discrimination debate.

The conference also involved unions from abroad, such as UNISON from the UK, Ver.di from Germany, as well as the NGO, ILGA-Europe. This cooperation between NGOs and unions nationally, with transnational involvement from unions abroad, is exemplary and could also be a model in other Member States where trade union involvement in anti-discrimination has so far been minimal.

128. In Malta the NGO MGRM has been involved in an ESF 60 project entitled 'Inclusion of Transgender Individuals into the Labour Market', which considered the attitudes of employers towards transgender job seekers and employees. The issue of transgender people and the labour market is one barely addressed by many equality bodies, the social partners or even by NGOs which may focus more on LGB than transgender issues. The information from this project could be used as a starting point to establish similar programmes targeting transgender people in the labour market in other Member States.
129. A few good practices from the Good Practice Exchange Seminar can be added. The Director of Strategy at Royal TNT Post and Chair of the Company Pride Platform described the 'business case' for emancipation. If LGBT people were comfortable and fully productive at work, it would raise European productivity by one per cent. Currently, 30 per cent of LGBT workers in the Netherlands conceal their sexual identity and they are almost invisible at management level. Different rights in different Member States are an obstacle to the free movement of workers and therefore to EU growth. Visibility is key and LGBT employee networks have been launched in many large organisations. The ultimate goal is full acceptance in society.
130. A representative from the Irish Department of Justice, Equality and Law Reform presented a good practice example in the field of employment from Ireland. The Public Appointments Service (PAS), responsible for all civil service recruitment, uses an equal opportunities monitoring form to gather information and ensure that minority applicants do not suffer discrimination.
131. A representative from the Swedish Ministry for Education and Gender Equality presented good practice examples from Sweden. The 'National strategy paper for government agencies as employers for the period 2007-2010' aims at ensuring an LGBT-friendly workplace. The 'All clear – Lesbians, Gays and Bisexuals at Work' toolkit – consisting of a handbook and CD material – has brought together different organisations and stakeholders with the common objective of creating an LGBT-friendly working environment. Researchers within the transnational partnership, TRACE, have published two books concerning



homophobia and hetero-normativity at work. They provide in-depth knowledge on how norms and prejudice work and how they can be made visible in order to change them, and present good practice examples for how to get started with challenging homophobia and hetero-normativity in the workplace.

132. The Good Practice Exchange Seminar resulted in the following conclusions. In the field of employment the importance of the business case for LGBT rights should be highlighted. If this could be articulated in micro-terms it would be a powerful tool. Company statistics tend to under-represent LGBT staff – figures on the hidden costs of discrimination (sick leave etc.) would be very useful. There is evidence that advertising in gay media boosts the recruitment of well-qualified IT and financial specialists and a Valentine’s Day promotion in the Netherlands increased turnover by 13 per cent when it added a gay/lesbian option.
133. It seems to be difficult to launch LGBT networks in small and medium-sized enterprises (SMEs) (fewer than 250 employees). Options include cross-company networks of LGBT professionals (such as the Genius group in the Netherlands), working through chambers of commerce and professional institutes, and business incentives like the launch of a company equality award.



7. ANALYSIS

7.1. General opinion, legislation and discrimination

134. The main difficulty in assessing the employment situation of LGBT people is the lack of information and reliable data. In most countries there are no official data and a very limited number of research studies. Most information comes from small-scale studies or NGOs, which do not have the resources needed to conduct national-level studies. As a result, it is very difficult to obtain reliable data concerning discrimination against LGBT people in terms of access to employment or self-employment. This situation is even more difficult in countries such as Estonia, Bulgaria and Hungary, where there is not even more 'generic' research about LGBT issues. In Romania the latest research on LGBT issues dates from 1999 and 2003. Moreover, in countries such as Greece, Malta and Luxembourg these data are considered 'sensitive personal data' and publicising such data is prohibited by law. Official data about the proportion of LGBT people in the population is widely recognised as an unreliable profile of sexual diversity. The Special Eurobarometer survey on discrimination in the EU, published in November 2009, confirms this situation: only a small percentage of people define themselves as part of a sexual minority, with an average of one per cent.
135. One of the main objectives of the Europe 2020 priority of inclusive growth is to ensure social cohesion, such that the benefits of growth and jobs are widely shared and people experiencing poverty and social exclusion are enabled to live in dignity and take an active part in society. Equal access to the labour market as well as equal opportunities for wellbeing at work and for career development have proved to be of the greatest importance to facilitate inclusion. This is especially valid for LGBT people, who are at risk of remaining marginal while they feel forced to hide their true identity. According to the same studies, if LGBT people were comfortable and fully productive at work, it would raise European productivity by one per cent.⁴⁴
136. The Good Practice Exchange Seminar in Den Haag on public policies combating discrimination against and promoting equality for LGBT people resulted in the conclusion that there is uneven progress in the Member States towards addressing the discrimination, harassment and inequality suffered by LGBT people.

⁴⁴ This figure was mentioned by Paul Overdijk, Director of Strategy at Royal TNT Post and Chair of the company Pride Platform, describing the 'business case' for emancipation during the Good Practice Exchange Seminar, 18-19 March 2010, Den Haag, the Netherlands.

137. The implementation of anti-discrimination legislation, as well as policy initiatives and activities designed to raise awareness about diversity, have contributed positively to changes in the general public's as well as employers' attitudes towards LGBT people. Nevertheless, invisibility is a concern and concealing sexual identity is a strategy widely used by LGBT people in order to avoid discrimination. In some countries a rise in openly homophobic incidents and statements by politicians has accompanied discussions about the introduction of same-sex marriage. However, there is a rise in public attention paid to the situation of LGBT people, and support for approaches towards open demonstrations of non-heterosexual ways of living in Gay Pride parades and similar events has become more positive.
138. All EU Member States have transposed the Directive establishing a general framework for equal treatment in employment and occupation (2000/78/EC) by enacting legislation aimed at eliminating discrimination on grounds of sexual orientation in the labour market. This legislation has improved the situation of LGBT people, mostly because it made discrimination of LGBT people a topic of public debate and in this way contributed to raising awareness in public as well as in companies.
139. However, the comparative analysis of the national reports on which this synthesis report is based (see Chapter 2), suggests that the new legislation has not yet had a great impact on the situation of LGBT people in the EU Member States. The findings in the reports indicate that under-reporting of discrimination cases remains high due to fears of being victimised when bringing a complaint, a lack of knowledge of rights or disbelief that legislation can effectively remedy against the negative consequences of revealing one's non-heterosexual identity.
140. Discrimination in the labour market is a topic of relevance in all European Member States. The extent of discrimination varies considerably throughout Europe. In some countries being a member of an LGBT group is considered to be a low barrier in access to employment, as in France. In other countries, access to employment, especially for transgender people, is reported to be nearly impossible. Discrimination in the labour market is prevalent all over Europe, with the most common form of discrimination being harassment, followed by barriers in career advancement, lower remuneration and higher risks of losing a job. The latter is specifically relevant for transgender people in the process of undergoing gender reassignment surgery.

7.2. Visibility, awareness, public opinion and the relationship between them



141. National reports show that in some new EU Member States there still is a lack of political will to promote, protect and respect the rights of LGBT people.
142. In the EU Member States LGBT people have to 'manage' the visibility of their sexual identity on a spectrum ranging between either revealing it, which involves a high risk of being discriminated against, or trying to act according to the expectations of the heterosexual norm and deny their sexual identity.

The extent to which LGBT people have to manage the visibility of their identity differs between countries and various contexts.

143. Transgender people tend to hide their gender identity to an even greater degree altogether. However, if they undergo gender reassignment surgery, they are forced to reveal their gender identity to their colleagues and managers.
144. The openness of society towards different sexual orientations is the key to more equality for LGBT people in the labour market, according to the findings of the national experts as well as the data provided by the Special Eurobarometer 317, *Discrimination in the EU in 2009*. It leads to greater awareness about discrimination, a higher degree of acceptance of different sexual identities, more favourable reporting in the media and consequently to a larger number of people disclosing their sexual orientation. At the same time, openness leads to lower levels of actual discrimination and to a higher level of readiness to act against cases of discrimination.
145. The lack of legal recognition for same-sex partnerships increases the disadvantages and vulnerabilities of LGBT people in the workplace. In those countries where there is a lack of any form of legal recognition for same-sex couples, this plays a pivotal role in shaping the situation of LGBT people in the workplace. For example, for the most part LGBT workers do not benefit from the same rights as heterosexual workers: time off to care for children; compensation for home-work transfer costs; time off to care for a partner with health problems or in the event of bereavement; entitlement to pension reversibility (the proportion of the pension transferred to the beneficiary's survivor); life insurance; training benefits for employees; and health insurance for employees and their families. In this context it is interesting to note that the government of Finland has introduced the idea of recognising the rights of partners in same-sex couples to have 'paternity leave', regardless of the sex of the partner.
146. According to the results of the Eurobarometer and national SEN reports, even in countries with positive attitudes towards LGBT people, such as Germany, Finland, France or the Netherlands, homophobia persists and coexists with



progressive discourses. Stereotypes and prejudices against LGBT individuals can come out in every field of life: in the workplace, in education or in neighbourhood relations. LGBT individuals are exposed to different levels of harassment and sometimes violence. 'Social distance' could be regarded as a fairly good indicator of prejudice and stereotypes in the society.

147. In countries such as Slovenia the social distance between LGBT individuals and the rest of the population is fairly wide, primarily due to lack of contact with (openly) LGBT individuals.

In countries such as Hungary, Lithuania or Latvia, homosexuality is still considered an 'illness' by the majority of the population and sexual relations between same-sex couples are still condemned in general public opinion. In contrast, there are interesting changes in public opinion in countries such as Portugal or Ireland where public opinion towards same-sex marriage is increasingly favourable. The 'coming out' of some public figures across the EU has generated greater visibility for LGBT communities and challenged the stereotypes deeply rooted in societies.

148. LGBT parades, marches and festivals constitute important elements in establishing visibility and advocacy for LGBT rights. Although in countries such as Spain, the Netherlands or the UK these events constitute part of the city's general activities and tourist attractions, in other countries they face the opposition of important leaders and institutions. For instance, local authorities in Bulgaria have restricted the space for these demonstrations and forbidden the use of certain routes involving passing certain governmental buildings, for 'security reasons'.
149. The media plays a pivotal role, either by advocating for the rights of LGBT people or creating and spreading negative information about these communities. Some media do not use appropriate terminology (e.g. gay individuals, LGBT communities, etc) thus confirming and reproducing stereotypes against LGBT people. This situation emphasises the importance of framing LGBT issues as human rights concerns.

7.3. Discrimination in the labour market

150. European legislation is particularly important in terms of LGBT rights in countries with conservative legislation in this regard as it contributes to changing attitudes and paves the way for basic legislative action. Furthermore, in the majority of European countries progressive EU legislation constitutes a framework from which to strengthen LGBT rights and reduce levels of discrimination.



151. Transgender workers face specific issues of discrimination in the workplace. In most countries there is no provision for transgender people that officially recognises their gender identity. Several studies have shown that transgender individuals enter the labour force much later than average, particularly because of the difficult and long process involved in the transition from one gender to another. They also often quit their jobs before 'coming out'. Additionally, they may have awkward gaps in their curriculum vitae: a female to male person may have completed military service in a male institution and a male to female person may have taken maternity leave. These situations jeopardise the incorporation of transgender people into the labour market.

152. In countries such as Greece there is evidence that these barriers to labour integration lead many transgender individuals to engage in sex work. A core issue for transgender people is obtaining identity or social security papers reflecting their current appearance. Most states refuse to change the civil status of a person unless a judgment has acknowledged a definitive surgical transformation from one gender to another. This leads to great difficulties for transgender people who, for instance, cannot be registered in job centres or get unemployment benefits when their current identity does not fit with the one recorded in official documents. Moreover, even in cases in which a person has proceeded with a gender reassignment operation, civil registry offices usually keep both their previous and new name in a manner that reveals their sexual orientation to every individual with access to such data, particularly in services offered by the public sector such as public employment services.

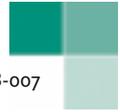
153. Some national reports have shown the importance for the wellbeing of LGBT communities of 'coming out' at work (for example, in the Netherlands). However, this positive outcome cannot be generalised due to the stigma and homophobia that still persist in many societies across the EU which jeopardise LGBT employees' career opportunities and general wellbeing. Many LGBT people are afraid that if their employer and colleagues discover their sexual orientation it may result in them losing their job. This fear of disclosure applies during the recruitment process and also in their social interactions in the workplace, where most LGBT employees have never spoken openly about their sexual orientation. Some studies show that employers are reluctant to call candidates whom they 'know' or 'presume' are gay to job interviews. In response, LGBT employees develop strategies to avoid revealing their sexual orientation which include the use of neutral wording to talk about their private life and 'passing themselves off' as heterosexual. Some describe going as far as using a 'cover' (inventing a partner of the opposite sex). These factors combined prevent LGBT people from fully developing their work potential and may hamper promotion opportunities. This situation occurs both in societies which



are respectful of or more progressive towards homosexuality and in societies with more conservative views. In this context there is a need to address a comprehensive approach which takes into account cultural and legal frameworks across the EU, which addresses discrimination towards LGBT employees and facilitates those who wish to 'come out' in their work environment.

154. Sexual orientation has an influence on choices, such as in which sectors and to which companies to apply for a job or whether to set up one's own business. Several studies across EU countries reveal that LGBT people believe that it may be more difficult to openly express their sexual orientation in particular areas of the job market and education sector, due to the dominant hetero-normative nature of most workplaces.
155. In many cases cited in the national reports LGBT workers had deliberately opted for professions or companies perceived as being gay-friendly, set up their own company to avoid a potentially homophobic workplace, chose a business sector that appeared to be tolerant or preferred an environment known to be less homophobic (usually organisations in urban and highly populated towns). Stereotypical attitudes about the skills and competencies of LGBT people also affect the kinds of jobs that they are likely to do. This may also result in people moving to larger cities, not only for social and cultural reasons, but because of the increased job opportunities available there. Transnational and large companies, which have established LGBT networks within the framework of their diversity activities, are among the most desirable workplaces for LGBT employees. Temporary employment agencies are less likely to respect these workers' right to equality in work, particularly in the phase of recruitment and selection of personnel. In countries such as France some lesbian and gay employees state that their sexual orientation is a plus factor in certain sectors which are considered to be 'trendy', such as art or fashion. However, this is not the case for most LGBT employees across the EU.
156. Five to 10 per cent of the workforce could be more productive and innovative in an LGBT-friendly workplace.⁴⁵ Equal treatment legislation plays an important role in stimulating an LGBT-friendly workplace, but it is necessary to deal with under-reporting and to explore the possibility of imposing positive duties as a means of preventing discrimination. Workplace infrastructure is needed to foster a planned and systematic approach to creating an LGBT-friendly environment. A particular emphasis is required to drive this approach in the SME sector.

⁴⁵ Good Practice Exchange Seminar on public policies combating discrimination against and promoting equality for LGBT people, the Netherlands, 2010.



157. In countries where LGBT networks have developed in the workplace (within transnational companies as well as at the cross-company level), these networks play a major role in promoting the wellbeing of LGBT people in the workplace. Networks create the opportunity for exchanges between LGBT people concerning their living situations and their experiences both in the workplace and in society. In Germany these networks are considered important to ensure that LGBT employees integrate into their work environment, and also have a positive impact on their wellbeing.



7.4. The role of religion

158. The attitudes of religious organisations still have a considerable influence on the situation of LGBT people. In countries like Cyprus and Poland, where the Orthodox and Catholic Churches respectively are highly influential and their interpretation of religious ethics is accepted by a large percentage of the population as being the one to follow, LGBT people face a comparatively homophobic climate, according to the general impression provided by the national reports. Non-heterosexual orientation is considered as an aberration of how family life should look and/or as an illness which should be cured instead of being accepted as part of a person's identity and respected as a way of life. This approach impedes social attitudes aiming at equality of opportunities for LGBT people in the countries affected.
159. A concrete case is reported for Cyprus, where a theology teacher whose sexual identity was revealed by his wife was put under pressure to resign from his teaching duties by the church itself. In Germany the Christian Church effectively blocked anti-discrimination legislation for several years, due to its opposition to non-discrimination clauses for LGBT people. The legislation in force includes an extensive exception for the Church and its institutions, which means Church employees can be requested to accept the rules imposed by the dogmas of Christian theology even in their private life. This means no open homosexuality or same-sex partnerships. The clause allowing religious organisations to demand that their employees comply with their ethos is also widely applied in Ireland.
160. In a number of countries important institutions and actors from religious organisations and within government have homophobic and racist policies. The position of the Roman Catholic Church against homosexuality is often reported to be one of the most commonly used arguments to uphold inequality or undermine equality for LGBT people. Members of parliament in different countries have used religious arguments to oppose equality initiatives. In Cyprus some politicians compared homosexuality to paedophilia, bestiality and necrophilia, thereby equating homosexuality with criminal practices. This was in reaction to a report published by the anti-discrimination body highlighting the importance of an acknowledgement of same-sex partnerships.⁴⁶

⁴⁶ Politis Online. Savva, K.: *I Vouli Enopion Omofilofilon (H Βουλή Ενώπιον Ομοφυλοφίλων)*. 10 May 2010. Politis Online. Stavrinidis, P.: *Yia tis Dilosis tou Voulefti Andrea Themistokleous (Για τις Δηλώσεις του Βουλευτή Ανδρέα Θεμιστοκλέους)*. 16 May 2010.



8. CONCLUSIONS

161. Generally speaking, the situation of LGBT people has improved considerably over the course of the last ten years in most European Union Member States. The implementation of anti-discrimination legislation in transposing the EU Anti-Discrimination Directives has increased legal protection and stimulated debate. Activities of equality bodies, NGOs and other stakeholders have contributed to raising awareness of discrimination against LGBT people and the need to overcome it. Nevertheless, there is broad scope for action to improve the situation and several barriers still remain to the realisation of equality in practice.
162. A new regime of anti-discrimination legislation created in order to fulfil the obligations of Directive 2000/78/EC, along with the peer pressure by Member States between themselves, has significantly improved the situation of LGBT people in countries with a low level of public acceptance. Even if existing legislation does not automatically lead to less discrimination and, because of the fear of victimisation, might not even lead to a rise in reporting, it opens the floor for public debate, makes it easier for politicians who are willing to act to do so and, in this way, contributes step-by-step to a change in climate.
163. Overall attitudes towards LGBT people are reported to have changed in a positive way in most EU Member States. Same-sex partnerships have been recognised in the majority of countries and public debate in the course of legislative procedures in this regard has contributed to a rise in awareness about the situation of LGBT people in general. Moreover, gay pride parades and other public events and the disclosure of their sexual orientation by public figures such as politicians, artists and journalists in several countries has furthered respect for non-heterosexual identities and facilitated a slow change towards a new perception of sexual and/or gender identity norms.
164. A number of good practice policy initiatives have been identified from a wide variety of countries with different societal attitudes towards LGBT people in the areas of employment, education and vocational training, mainstreaming of equality policies and multiple discrimination. For example, in the area of employment, in the UK one NGO is conducting a major national benchmarking exercise, in Poland NGOs are reaching out to unions at home and abroad to begin to raise awareness and in Malta an NGO is assessing the labour market for transgender individuals. In the Netherlands mainstreaming of LGBT policies is reported to be very advanced at national and also local level. Finally, in terms of multiple discrimination, an LGBT NGO in Germany is reaching out to intercultural groups to be more inclusive of LGBT people with a minority ethnic background.



165. Equality bodies have begun to see their mission as both handling individual complaints from people who have suffered from discrimination and taking measures to address structural discrimination in society. Some Member States have been very active in outreach campaigns to raise awareness of the need to combat discrimination based on all grounds of discrimination, including sexual orientation. A welcome development is also the efforts to decentralise the system, so that people outside of the capital cities also have access to offices and information addressing discrimination.
166. The increased attention which some trade unions are devoting to equality and non-discrimination is another positive development. In addition, one of the good examples noted, in which unions in Germany and the UK collaborated with Polish unions to address discrimination based on sexual orientation, could be tried elsewhere.
167. Diversity management initiatives within (international) companies are increasingly also tackling LGBT issues. These include LGBT networks and targeted recruiting, trying to attract LGBT people as employees. Research shows that diversity management strategies encourage more openness within companies and as such are the main positive factors in the wellbeing of LGBT people at work and in enabling them to disclose their sexual orientation in the workplace.
168. There is a general lack of information about the situation of LGBT groups in the labour market. Information and reliable data on the sexual orientation of the population are nearly non-existent and consequently there is also no information on the labour market situation of the population broken down according to sexual orientation. Moreover, research in this area is very rare. Public attention and political action and thus also media attention and research focus more on issues of same-sex marriage, adoption rights and health issues rather than on the situation in the labour market.
169. The level of under-reporting is particularly high for cases of discrimination on grounds of sexual orientation. Many victims do not file any kind of complaint. This phenomenon is even higher than for other grounds, as initiating a case means disclosing sexual identity and brings the risk of victimisation. So in countries where the general attitude towards LGBT people is negative the risks are too high for individual victims.
170. Policy initiatives aiming specifically to remove barriers for LGBT people in the labour market are rare. Labour market activation programmes and strategies



aiming at a more inclusive labour market are either of a general nature or focus on women, migrants, older or younger people.

171. While trade unions have begun to address issues of discrimination in some of the Member States, very little engagement is seen among employers' organisations, especially in addressing discrimination based on sexual orientation.
172. The social economic councils, bringing together trade unions, employers' associations and government, could address discrimination issues in the workplace as part of their tripartite discussions and negotiations, but have largely failed to do so.
173. Efforts to combat discrimination experienced by transgender people are almost non-existent. At times, programmes developed to reach out to LGB people fail to address the needs of transgender people. In general there is a lack of transgender NGOs, with the result that there is also less attention paid to their needs and less lobbying activity and transgender people only have limited access to their rights.



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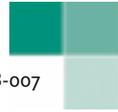
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ANNEX Part I

Non-governmental organisations in the LGBT field in the European Union Member States

In Austria the LGBT organisations are organised in such a way as to give them both a local presence across the country and national organisation to influence federal policy-making. There are HOSI (Homosexuelle Initiative) organisations in Vienna, Salzburg, Linz and Innsbruck, a legal counselling service provided by the Rechtskommittee Lambda and specifically lesbian associations (RosaLila PanterInnen), as well as the transgender organisation TransX.

In Belgium the Flemish Federation of LGBT organisations, CAVARIA, published a brochure in 2008, entitled 'Out of the closet works better' to focus on the wellbeing effect of coming out at work.

In Denmark the Danish National Association of Gays and Lesbians (LBL) is an active organisation. There are also specialised NGOs, for example transseksuel.dk.

In Italy Arcigay and Arcilesbica are two large umbrella organisations with specific initiatives in relation to the inclusion of LGBT people in the labour market. They are involved in a gay helpline accessible from all over Italy, a project with the CGIL labour union and lobbying government at various levels.

In Finland SETA is the umbrella NGO representing LGBT people and it has evolved into a major player in combating discrimination. It has been involved in numerous projects to assess the work-life situation of people belonging to sexual and gender minorities.

In France there are several hundred LGBT associations, some of which have developed initiatives centred on the workplace. One of the most prominent is L'Autre Cerle, which brings together 11 regional associations, and another is SOS Homophobia.

The Lesbian and Gay Federation in Germany (LSVD) has more than 3,300 individual members and 80 member organisations. Some of these organisations are intercultural groups, for example the TurkGay and Lesbians group.

In Ireland the National Lesbian and Gay Federation (NLGF) has been active in combating discrimination. There is also an NGO organised around transgender issues, Transgender Equality Network Ireland (TENI).

In Luxembourg Rosa Letzebuerg works to promote civil rights and combat discrimination.



The main LGBT organisation in the Netherlands is COC Netherlands, which supports victims of discrimination, lobbies and develops activities. It organises a 'pink debate' with the leaders of political parties before elections and, after the cabinet is formed, it cooperates with the group Movisie to assess the government programme.

The largest LGBT organisations in Poland are the Campaign against Homophobia (KPH), Lambda Warsaw and Lambda Bydgoszcz.

In Sweden one of the oldest and most established LGBT NGOs in Europe is active: RFSL. Among its many projects is one focusing on working life, called 'This I did not think about Sweden', which is concerned with discrimination in employment.

In the UK Stonewall is a campaigning and lobbying organisation which has issued a number of important guides and training manuals in the context of employment. There are also a large number of other LGBT organisations across the UK.

There are two main LGBT organisations in Portugal, ILGA-Portugal and Opus Gay. These organisations have placed LGBT issues on the public agenda and been influential in lobbying, for example on the law on same-sex marriage passed by the parliament in January 2010.

While the Czech Republic has a number of organisations around cultural, sporting and social activities, STUD Brno is the most visible organisation representing LGBT people. Another important organisation is the Counselling Centre for Citizenship, Civic and Human Rights, because of its lobbying and homophobia-fighting activities. The Centre played a key role in lobbying for the Anti-discrimination Act.

In Estonia there are two LGBT organisations visible to the general public and active politically in lobbying – EGN and SEKU.

There are numerous LGBT organisations within Hungary; the Hatter Society is one which has been involved in lobbying the government, especially through its lawyers' committee.

There are two main LGBT NGOs in Lithuania, the Lithuanian Gay League and the Tolerant Youth Association.

Mozaika is the LGBT organisation in Latvia. It organises the Pride march in Riga. It has also been lobbying the government and parliament for the introduction of same-sex partnerships.



In Slovakia there are three organisations: Museion is a lesbian organisation, the Queer Leaders Forum focuses on visibility (for example, the Rainbow Pride Parade) and Inakost [Otherness] is focused on enacting a law on life partnership.

There are three NGOs active in combating discrimination in Slovenia, Skuc, Legebitra and DIH, and their role often extends to being policy initiators within the political system. At times, expert research institutions, such as the Faculty of Social Sciences and the Peace Institute, have been helpful in providing surveys and studies on the issue of discrimination and LGBT people. In 2009 Legebitra carried out a project called TransMission to raise awareness and promote the better inclusion and integration of transgender people in society.

In Spain FELGTB is active at the federal level. In Catalonia the Catalan Association for the Integration of LGBT immigrants (ACATHI) has been active in addressing multiple forms of discrimination which LGBT immigrants often face.

The most visible group in Malta is the Malta Gay Rights Movement (MGRM). It has been involved in a poster campaign on equality within the workplace, funded by the Civil Society Fund.

In Bulgaria the NGO Gemini is active and has received some transnational assistance from abroad, such as the Balkan Triangle Project with COC Netherlands and ACCEPT Romania. There is also the lesbian organisation, Bilitis, and LGBT Action, focused on LGBT young people and students.

In Cyprus the Gay Liberation Movement (AKOK) was formed in 1987. Also, ACCEPT LGBT, founded on 17 May 2010 on the International Day against Homophobia, has achieved widespread media attention.

The Homosexual and Lesbian Community of Greece (OLKE) is active in organising rallies and raising issues regarding same-sex marriage. In addition to the LGBT organisations, Amnesty International's Greek division has been outspoken and believes there is a lack of legal protection for LGBT people in Greece.

Accept is the NGO focused on LGBT rights in Romania. It offers legal, psychological and health counselling, an information service and support groups. Accept has also been active in lobbying the government.

Overview of the involvement of social partners in LGBT issues



In Ireland the Irish Congress of Trade Unions (ICTU) published the first guidelines for trade unions in Ireland concerning LGBT in the workplace in 1982. Since then, it has actively promoted equality.

In France the CFDT, the CGT and the CFTC have sought to integrate the fight against homophobia into collective negotiations at both an industry level and in professional divisions. The unions have also been visible in the public sphere on this issue, for example the CGT and CFDT participate in gay pride marches across the country.

In Germany trade unions are playing a growing role in bringing forward diversity and LGBT issues in the workplace and in society. LGBT working groups have been formed within unions related to the umbrella Confederation of German Trade Unions (DGB). LGBT interest groups exist within the Mining, Chemical and Energy Industrial Union, IGBCE, but are not visible on the union's website, although other special interest groups are. The German Education Union (GEW) has been involved with supporting gay and lesbian teachers.

In the Netherlands the trade unions within the government and education sectors, in particular, have been involved in initiatives to improve the employment situation of LGBT people. In 2008 the trade union confederation, FNV, launched Pink FNV, a digital network where LGBT people can support each other, highlight problems and make suggestions to FNV staff. LGBT working groups have been set up within a number of unions. Employers' organisations have not developed any activities specifically within this area. The Social and Economic Council of the Netherlands (SER) and the Labour Foundation have hardly developed any activities specific to this area.

Most trade unions in Sweden have developed policies and practices to combat discrimination in working life, including in relation to LGBT people.

In the UK the trade union movement has emerged as one of the most prominent advocates of LGBT rights in recent years. All three of the largest unions have made explicit commitments to combat discrimination based on sexual orientation (Unite, UNISON and the GMB, as well as the umbrella body, the TUC).

In Austria social partner activities specifically on LGBT issues are comparatively rare. But the Vienna Business Council has recently incorporated them into its diversity programmes. The Austrian Federation of Trade Unions (ÖGB) has also begun to open up to the issue as part of its diversity focus. In its 2009 basic programme, it argues that same-sex partnerships require changes in labour law, especially around parental and carer's leave.



In Belgium a regional federation within the French-speaking FGFB union organises training sessions for union delegates and published a brochure in 2007, entitled 'I am gay. Am I worth less than a hetero?'

In Denmark, while the trade unions have been active in raising awareness, there is no evidence that the main organisation for employers has any focus on LGBT persons. An investigation in 2005 regarding discrimination based on sexual orientation, commissioned by the main association of trade unions (LO), led several unions to be more active, for example by publishing a brochure.

In Finland the Central Organization of Finnish Trade Unions (SAK) has adopted a declaration stating that members of sexual and gender minority groups, "should be entitled to an equal right to self-expression and to openly discuss their private and family lives if they so wish".

In Italy while the three national trade union confederations have adopted some policies, which take into account discrimination based on sexual orientation, the Italian General Confederation of Labour (CGIL) has been particularly active. Here CGIL's New Rights Office should be noted.

In Lithuania trade unions and employers' organisations have not been very active on issues related to discrimination based on sexual orientation. LGBT NGOs did reach out to the unions during the EQUAL project and some initial co-operation occurred.

There have been few projects or activities initiated by unions or employers' organisations in Luxembourg to combat discrimination based on sexual orientation. However, one of the two unions in Luxembourg, the LCGB, has created a programme on 'bullying' in the workplace. In addition, sexual orientation is supposed to be included in the Social Responsibility Charter promoted by the Union of Luxembourg Enterprises, but it is rather diluted compared to other dimensions such as the environment, social issues or equal opportunities more generally.

In Portugal the trade union federations have begun to pay some attention to LGBT issues in recent years. The two main confederations, CGPT-IN and UGT, have had regular contact with LGBT organisations since 2003 and participate in some activities, for example the Pride marches. None of the four employers' confederations in Portugal has offices or working groups devoted to work-related discrimination against LGBT people. The Economic and Social Council, a constitutional advisory and consultation body in the social and economic field, has no office working on discrimination based on sexual orientation and none of the opinions and recommendations, which it regularly drafts on social and economic matters, is devoted to LGBT discrimination.



In Spain the two principal trade union confederations, CCOO and the Union General de Trabajadores, are working with the NGO FELGTB to launch anti-discrimination initiatives. Involvement has focused on participation in gay pride marches in the main cities, especially Madrid, but also on a jointly produced online guide for the promotion of diversity in the workplace. In terms of employers' organisations, in Madrid and Catalonia a group of LGBT entrepreneurs have begun to diversify business associations.

In Bulgaria, while there are several examples of cooperation between trade unions and employers' associations with NGOs based on other grounds of discrimination, there are none in the area of sexual orientation, despite invitations from LGBT organisations.

In the Czech Republic, according to the Czech-Moravian Confederation of Trade Unions, the Confederation does not develop any activities aimed at combating discrimination against LGBT people. The Employers' Association has also not taken up LGBT issues.

Finally, the Council for Economic and Social Agreement (the Tripartite) has not identified issues based on discrimination of sexual orientation, does not have a working group and has issued no recommendations.

In Cyprus LGBT issues are largely absent from trade union policy. One exception is a resolution contained in the Trade Union and Social Action Plan for 2009-2012 of the Democratic Labour Federation of Cyprus, with a policy statement which declared that the union is unreservedly against all forms of discrimination, listing all six grounds protected in the EU directives, including sexual orientation. The employers' organisations have a general policy on equality, focused on gender. The tripartite social dialogue, called the Labour Advisory Body, has not addressed discrimination based on sexual orientation.

In Estonia the social partners have not played a meaningful role in combating discrimination based on sexual orientation,

In Greece trade unions and employers have been silent on discrimination related to sexual orientation.

In terms of the social partners in Hungary, there are no national resolutions, no LGBT working groups and no institutional framework for handling discrimination; there are also no initiatives by employers' organisations.

In Latvia issues of discrimination based on sexual orientation have not been a priority for the Union of Free Trade Unions. A representative of the Latvian Employers' Confederation said that issues related to LGBT people concerning access to work,



working conditions or wellbeing had not been discussed. The National Tripartite Cooperation Council of Latvia (NTCCL) has not discussed discrimination against LGBT people.

There are two leading trade unions in Malta, UHM and GWU. Of these, only the latter has made statements in relation to LGBT employees and has issued a policy document called 'Twemmin' meaning 'Belief'.

In general, in Poland the trade unions and employers' organisations have not been involved in activities to confront discrimination based on sexual orientation. However, since 2009, the labour union (OPZZ) has a Gay and Lesbian Liaison and the Polish Teacher's Union (ZNP) has spoken out against the announcement by the Deputy Minister of Education regarding dismissals of teachers who reveal their homosexual orientation. The Trilateral Commission (social economic council) has not been engaged in the issue of confronting discrimination based on sexual orientation.

The issue of LGBT discrimination has not been high on the agenda of the social partners in Slovenia. However, recently the NGO SKUC LL, developed a 'Diversity management in employment programme'. While employers' organisations have not been active, some individual companies have included basic provisions prohibiting discrimination based on sexual orientation in the workplace, for example Telekom Slovenije.

In Slovakia the Slovak trade unions are not very involved in combating discrimination based on sexual orientation and nor are the National Union of Employers or the Economic and Social Council.

In Romania there has been no activity by labour unions and employers' organisation in the field of discrimination based on sexual orientation.