European Commission

List of actions by the Commission to advance LGBTI equality

#EU4LGBTI

Justice and Consumers

Foreword

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Imagine if you were attacked in the street just for holding hands with your partner. Imagine if your children were bullied or isolated at school just for who they are. Sadly, such experiences remain part of everyday life for Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) citizens in Europe.

Discrimination should have no place in our Union. However, the 2015 Eurobarometer on discrimination shows that almost 60% of EU citizens see discrimination based on sexual orientation and gender identity as widespread. The figures on the lack of social acceptance of this group are alarming. At the same time, 71% of respondents support equal rights for LGBT people. These figures should be a wake-up call for governments.

If we want to tackle discrimination against LGBTI people we need concrete actions. I am very pleased to present this 'List of Actions to advance LGBTI Equality'. The list describes comprehensively the activities the European Commission will undertake in the coming years.

The Commission cannot bring about change alone. Member States have a key role to play, and in many areas, it is Member States' competence to ensure LGBTI rights. Change will not happen overnight, but change is indeed possible if the political will is there. We can -and we will- support concerted action at all levels, and this pledge is a cornerstone of the List of Actions.

The Commission will provide regular feedback to the Council, the European Parliament, the Member States and civil society organisations on progress made in the implementation of the actions. The Commission will closely monitor the situation of LGBTI people in the European Union and beyond and these regular dialogues will allow us to exchange views on new developments.

No one will lose out if LGBTI people get the rights that everyone else can already enjoy. I am committed to defending and promoting the values of equality, tolerance and respect for each other, values on which the European Union is founded.

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List of actions by the Commission to advance LGBTI equality

The actions listed cover in a comprehensive way all policy areas that are relevant for LGBTI people: **non-discrimination, education, employment, health, free movement, asylum, hate speech/hate crime, enlargement and foreign policy**. The Commission's objectives are to support progress in all EU and accession countries in all these policy areas, improve the social acceptance of LGBTI people and enforce EU legislation.

A priority of the Commission is to ensure that EU legislation and policy fully comply with the Charter of Fundamental Rights, including Article 21 which contains a general prohibition of discrimination, including on grounds of sexual orientation and gender identity. In order to ensure that the rights are fully taken into account in the legislative process, the Commission carefully scrutinises every proposed policy measure under a "fundamental rights check". The Commission will continue to champion fundamental rights in its legislative and policy proposals whenever they cover aspects relevant for the rights of LGBTI persons under EU law. A review of the Commission's work to this effect is systematically and transparently presented in its Annual Reports on the application of the EU Charter of Fundamental Rights, which include information on the application of Article 21 of the Charter.

For the implementation of the actions the Commission will continue cooperating with the EU Fundamental Rights Agency, EIGE and other relevant EU agencies, as well as civil society and relevant international organisations including the Council of Europe, the OECD and the UN. Regular joint meetings will be organised at the margins of the LGBTI Government Focal Points Network Group. The Commission will be also actively participating at the IDAHO annual forum to exchange information and be aligned with the growing movement of Member States supporting LGBTI rights. Contacts with civil society will also be regularly maintained.

I

Improving rights and ensuring legal protection of LGBTI people and their families in key areas of EU competence

The Commission will continue to support and work with the present and upcoming Council Presidencies to ensure the adoption at EU level of key legislation for LGBTI people and where necessary overcome existing political resistance.

1 Completing the EU level gap in protection against discrimination as regards education, social protection and access to goods and services

The **Equal Treatment Directive** proposed by the Commission will prohibit discrimination on the basis of sexual orientation in education, social protection and access to goods and services. Its adoption by the Council would considerably broaden the antidiscrimination areas covered by EU law and the scope of action of the Commission in monitoring the implementation and transposition of the Directive, as well as controlling powers in cases of a possible breach of this EU legislation.

2 Simplifying the daily life of LGBTI families moving in Europe

The Commission has proposed EU legislation to facilitate the daily life of citizens living in a Member State other than that of their origin. These measures would facilitate also the lives of LGBTI people and their families.

An example is the **proposed regulation to facilitate the free circulation of public documents**. Its adoption will eliminate red tape and costs for citizens, including LGBTI people, when they present certain public documents in another Member State It is an important step to an effective free movement right for all.

II

Strong monitoring and enforcement of existing rights of LGBTI people and their families under EU law

3 Enforcement & monitoring the transposition and implementation of EU law

The EU acquis includes legislation directly relevant to the rights of LGBTI people. The Commission will ensure that the specific issues related to sexual orientation and gender identity are properly taken into consideration in both the transposition and implementation of this EU legislation. Some examples (non-exhaustive) and key areas are the following:

- **Gender legislation:** The Commission will monitor the Directive on Gender Equality in Employment and Occupation and the Directive on Access to and Supply of Good and Services to ensure that implementation by Member States is aligned with the case law of the Court of Justice of the European Union on gender reassignment.
- **Victims of Crime Directive and the legislation on mutual recognition of protection measures:** The Commission currently assists the Member States in the correct implementation of the Victims of Crime Directive. Following the transposition deadline of 16 November 2015, the Commission may, if necessary, take legal steps against those Member States that fail to transpose the Directive on time.

  The correct implementation of the provisions on individual assessment of victims' needs will a) provide for better identification and better protection of victims of all crimes, including victims of bias motivated crime, such as homophobic and transphobic crime and b) increase the victims' trust into the national institutions and consequently lead to a higher toll of crime reporting.

  The Commission's monitoring of application of the Directive on the European Protection Order and the civil Regulation (No 606/2013) applicable from 11 January 2015 will take into consideration whether the national civil and criminal protection orders issued in regard to same sex couples are effectively recognised (on basis of these instruments) in other Member States.
- **Asylum:** The Commission monitors the adequate transposition of all legal instruments of the Common European Asylum System, including the Qualification Directive. Sexual orientation

and gender identity will be mainstreamed in the daily work of the Commission and the European Asylum Support Office (EASO) in the area of asylum.

- **Free movement and cross border issues:** The Commission will continue to ensure that the specific issues related to sexual orientation and gender identity are properly taken into consideration in the transposition and implementation of Directive 2004/38 on the right of EU citizens to move and reside freely within EU countries.
- **Employment:** All Member States have already transposed The Employment Equality Directive. The Commission will continue monitoring its implementation including specific aspects related to sexual orientation, notably as interpreted by the case law of the Court of Justice of the European Union.

III

Reaching citizens, fostering diversity and non-discrimination

4 Communication campaign to improve the social acceptance of LGBTI people

A broad and inclusive communications campaign is envisaged, including specific actions aiming at :

a) improving the social acceptance of LGBTI persons and making societies more open and inclusive throughout Europe ;

b) combatting the negative stereotypes that LGBTI persons endure, and which result in discrimination;

c) raising awareness about the rights of LGBTI persons. Special focus areas will include homophobia in sports, young LGBTI, bullying at schools and transgender and intersex people.

The campaign will be rolled out in cooperation with Member States and civil society at national level and will take into account the specific national needs and circumstances. Cooperation and coordination will also be reinforced with international organisations in order to avoid duplication.

IV

Supporting key actors responsible to promote and advance equal rights for LGBTI people in the EU

5 Supporting Member States in key policy areas

Member States are the main drivers for change as they have exclusive competences on key areas relevant for LGBTI people. The Commission has in place a number of working groups with Member States amongst which synergies and cross-reporting on LGBTI policies will be ensured:

- **Non Discrimination:** The High Level Group on Non-discrimination, Equality and Diversity brings together representatives from all EU 28 Member States responsible for equality issues twice per year. Through this platform, the Commission will facilitate voluntary commitments from Member States by providing peer learning possibilities and regular good practice exchanges focused on public policies combatting LGBTI discrimination, which will involve experts in the field from civil society and/or other relevant organisations depending on the topic. This group supports the work of each Council Presidency in the area of Equality.

  Topics identified for exchange of good practices include: transgender legislation/ legal gender recognition, the development of efficient national action plans, and the use of the European Social Fund to support full social inclusion of LGBTI people, particularly at the labour market.

- **Hate crime and hate speech:** The Commission-led EU High level group on racism, xenophobia and other forms of intolerance will regularly bring together Member States, civil society and community representatives to step up cooperation and improve coordination, exchange best practices and identify gaps with a view to ensuring the proper enforcement of EU and national criminal law legislation on hate crime and hate speech. This will include dedicated thematic meetings on the effective prosecution of homophobic and transphobic hate speech and crime.

  Action will also be stepped up at EU level to support Member States in their efforts on combating online hate speech, including, where covered by national legislation, homophobic and transphobic hate speech, by initiating a dialogue at EU level with IT companies and supporting the development of counter-narratives online.

- **Education:** The Commission will support Member States through the organisation of a best practice exchange on LGBTI anti-discrimination actions in education and homo and transphobic school bullying, safe school environments and diversity lessons at school in the context of the tolerance and diversity policy development that will implement the Paris Declaration. Such a best practice exchange will involve relevant national authorities, schools, police forces. The Commission will present, promote and disseminate existing guidelines and successful experiences on these matters and will publish a report for wide dissemination.

- **Health:** The Commission will continue following actively the work of the World Health Organisation (WHO) towards the depathologisation of transgender identities in the review of the International Classification of Diseases (ICD).

  The Action Plan on HIV/AIDS in the EU and neighbouring countries 2014-2016 seeks to provide support to Member States, civil society and stakeholders in order to improve policies targeting the populations most at risk, including within the LGBT community. The Commission continues to involve civil society, including ILGA Europe, at all stages of development, implementation and monitoring of the response to HIV/AIDS.

  In the area of health, the Commission leads an Expert Group on Social Determinants and Health Inequalities that will be informed on relevant reports, research and developments concerning LGBTI people.

6 Financial support to public and private organisations for LGBTI issues in key policy areas

The Commission has specifically allocated EU funding under the Rights, Equality and Citizenship Programme (2014-2020) to help Member States combating discrimination and homophobic and transphobic hate speech and crime, including through the exchange of good practices, training and capacity building. Targeted funding for national authorities will be made available as from 2016 in the area of hate crime and hate speech for Member States to carry out specific projects aimed at better implementing relevant legislation, including through training of judges, prosecutors and police. The Commission will also continue supporting the work of EU level civil society organisations defending and advocating LGBTI rights. Action grants for specific projects addressing discrimination on the grounds of sexual orientation, gender identity or sex characteristics (intersex) will also continue to be a funding priority.

The European Social Fund dedicates in the current period (2014-2020) at least 20% to social inclusion and combatting discrimination so that disadvantaged groups (including LGBTI) will get more support to have equal opportunities in comparison to others on the labour market.

Support to projects related to equity, diversity and anti-discrimination (including of LGBTI) within education and training are funded as part of the Erasmus + programme covering education, training and youth.

7 Supporting businesses and inclusive workplaces

The Commission will raise awareness amongst businesses of the benefits of an inclusive workplace, involving also trade unions and social partners. This will be done through the EU Platform of Diversity Charters and the action includes a publication on the business case of LGBTI inclusion for both private companies and public authorities, including examples and best practices in the EU and beyond.

The Commission will also set an example as an employer that values an inclusive workplace by creating and publicising its internal diversity strategy, which includes amongst other actions specific training on diversity for both managers and staff that will take into account the grounds of sexual orientation and gender identity.

V

Figures and facts for policy makers on LGBTI challenges at the EU: Data collection and research activities

8 Improving available data on the situation of LGBTI people

The following reports will be produced and/or brought to the attention of Member States and relevant stakeholders in 2016-2019 through the awareness raising campaign and relevant expert groups led by the Commission.

- **Non-Discrimination and Fundamental Rights:** The Commission has commissioned a study regarding Member States' collection of equality data to be published in 2016. The study will map existing legal framework and practices within the European Union, update the European Handbook on Equality Data and produce a comparative review of Member States' equality data collection practices. A new Eurobarometer on Discrimination, including data on LGBTI people, has recently been published and will be repeated in 2019.

  The Fundamental Rights Agency (FRA) will publish a report on public authorities experiences in dealing with fundamental rights of LGBTI people focused in the areas of public policy, education, health and law enforcement. The Commission will also invite the Fundamental Rights Agency to repeat the survey on experienced discrimination of LGBTI people in 2019 in order to measure trends from 2013.
- **Health-inequalities:** The Commission will carry out a pilot project that includes a study on health inequalities faced by LGBTI people, especially those in vulnerable situations (isolated communities, elderly and young people, prison settings, people from lower socioeconomic groups, etc.) and the barriers faced by health professionals when providing care. Based on the outcomes training modules have to be developed for health and –if identified as necessary– social care professionals. This training should tackle skills, attitudes and knowledge.
- **Education:** The Commission has commissioned two analytical reports to be published by the end of 2015. One is focussing on bullying in schools covering areas of gender, racism, disability and sexual orientation and the other is on Tolerance and Diversity. These reports will feed in the policy development generated by the Paris Declaration of the EU Education Ministers, on March 17th, 2015.
- **Hate Crime/ Hate Speech:** The Fundamental Rights Agency will support Member States in improving recording and identifying a methodology for data collection of hate crimes, including on grounds of sexual orientation and gender identity.
- **Free movement of LGBTI families**: The Commission will map research activities and studies of the difficulties that LGBTI people and their families encounter in their daily lives in cross-border situations and free movement in the EU.

- **Intersex:** Both the Fundamental Rights Agency and the Council of Europe have recently published research on the main issues related to human rights of Intersex people, including recommendations. The Commission will disseminate these publications amongst Member States and in all relevant peer learning activities.
- **Transgender/gender legal recognition:** The Commission will study elements of gender recognition legislation (or lack of) that affect transgender people's position on the labour market and other areas.

VI

External action: LGBTI issues in Enlargement, Neighbourhood and Third countries

9 Enlargement and Neighbourhood countries

The Commission closely monitors the implementation of all relevant legal provisions and actions by governments and raises matters of concern regarding the situation of LGBTI persons in the Western Balkans and Turkey in the context of accession negotiations and in the context of the Stabilisation and Association Process.

The Commission supports the rights of LGBTI persons and has funded various projects, including under the Civil Society Facility, through which the Commission supported the establishment of the 'ERA – LGBTI Equal Rights Association of Western Balkans and Turkey' network.

With regard to European Neighbourhood Policy countries, the rights of LGBTI persons are addressed as part of Human Rights Dialogues. EU Delegations will maintain regular contacts with Human Rights Defenders, including those working to promote the rights of LGBTI persons. Projects to combat the discrimination of LGBTI people are funded through the European Instrument for Democracy and Human Rights (EIDHR).

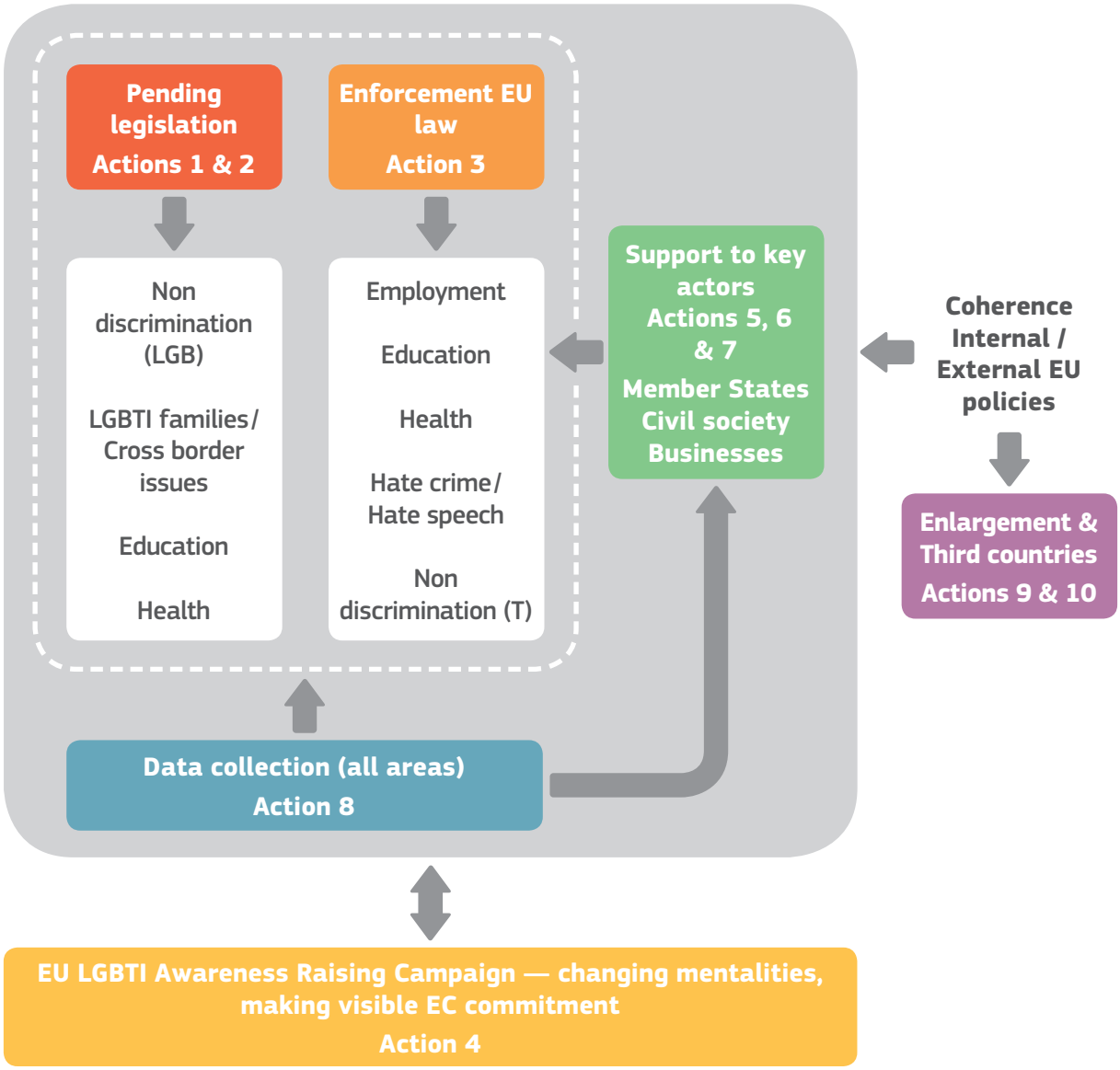
10 Third countries

The implementation of the 2013 "Guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex (LGBTI) persons" guide the external actions of the EEAS on this matter. The EU continues to raise the issue in its human rights and political dialogues with third countries and when appropriate, issues statements in cases of violence against LGBTI individuals and regarding the introduction of legislation discriminating against LGBTI persons.

The EEAS together with the Commission provides support to LGBTI human rights defenders through the European Instrument for Democracy and Human Rights (EIDHR). The EU also continues to be actively engaged in multilateral efforts, notably within the UN, to tackle discrimination, including on the basis of sexual orientation or gender identity.

In accordance to the 2015 EU Action Plan on Human Rights and Democracy, the EEAS (together with the Commission and Member States) will increase awareness and proactive handling by key staff of LGBTI issues in Headquarters, EU Delegations and MS Embassies.

Internal coherency of the Commission list of actions and policy areas



Calendar and objectives

Action	Objective / Expected impact	Timing	Actors involved
I. Improving rights and ensuring legal protection of LGBTI people and their families in key areas of EU competence			
1 **Completing the EU level gap in protection against discrimination as regards education, social protection and access to goods and services**	• Legal protection against discrimination in social protection, education and access to good and services in all 28 EU countries	By 2019	Member States, Council
2 **Simplifying the daily life of LGBTI families moving in Europe**	• Less red tape and costs for citizens, including LGBTI people	By 2019	Member States, Council
II. Strong monitoring and enforcement of existing rights of LGBTI people and their families under EU law			
3 **Enforcement & monitoring the transposition and implementation of EU law**	• Strong monitoring from the Commission including infringement procedures when/if necessary will allow 25 million LGBTI citizens estimated in the EU to fully benefit from EU protection relevant for them • Annual publication on the implementation of the Charter of Fundamental Rights	2016-2019 (ongoing activity)	Civil society, equality bodies and the European Parliament to play a watchdog role and inform the European Commission on possible breaches of EU law
III. Reaching citizens, fostering diversity and non-discrimination			
4 **Communication campaign to improve the social acceptance of LGBTI people**	• EU Citizens change positively their attitude towards LGBTI people • Improved awareness of rights by LGBTI people • Reduced risk for hate crimes and discrimination • More visibility of trans and intersex issues in the EU	Jan 2016-Dec 2018	Civil society, European Union Agency for Fundamental Rights (FRA), International organisations, member States

Action	Objective / Expected impact	Timing	Actors involved
IV. Supporting key actors responsible to promote and advance equal rights for LGBTI people in the EU			
5 **Supporting Member States in key policy areas**	• Enhanced capacity of government officials from all EU 28 Member States to deal with LGBTI policies and legislation in key areas (equality, education, health, employment) • New commitments from Member States facilitated through peer pressure, exchanges and trainings, resulting in new National Action Plans • Improved legislation at national level on hate speech/ hate crime, non-discrimination and transgender issues	2016-2019 (precise planning of good practice exchanges under discussion with MS)	Member States, FRA, International Organisations
6 **Financial support to public and private organisations for LGBTI issues in key policy areas**	• Financial support to civil society, private and public bodies to carry out projects focused on LGBTI in all key areas	2016-2019	N/A
7 **Supporting businesses and inclusive workplaces**	• More companies dealing with LGBTI issues in their diversity strategies	2016-2019	Diversity Charters, trade unions, businesses associations, civil society
V. Figures and facts for policy makers on LGBTI challenges at the EU: Data collection and research activities			
8 **Improving available data on the situation of LGBTI people**	• Improved knowledge on LGBTI issues in all key areas to assist policy makers in advancing LGBTI rights	2017-2019	FRA
VI. External action: LGBTI issues in Enlargement, Neighbourhood and Third countries			
9 **Enlargement and Neighbourhood countries**	• Reports on enlargement countries published in 2016 including LGBTI issues • Implementation of the Guidelines to promote and protect the human rights by LGBTI persons • Projects to combat the discrimination of LGBTI people funded through the European Instrument for Democracy and Human Rights (EIDHR)	2016-2019 (ongoing activity)	Civil society, International organisation, member States
10 **Third countries**			

More information:
ec.europa.eu/justice/discrimination/orientation/eu-action/index_en.htm

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