European Commission

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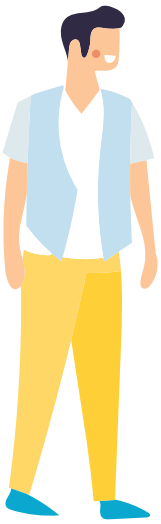
Spotlight on

THE EU AND LGBTI EQUALITY

February 2020

Everyone in the European Union has the right to be treated equally.

76 % of Europeans polled in 2019 agreed that gay, lesbian or bisexual people should have the same rights as heterosexual people, up from 71 % in 2015. However, lesbian, gay, bisexual, transgender and intersex (LGBTI) people can face discrimination in many areas of life, for instance when looking for a job or asking for social security benefits, at school or when they need healthcare. They may also face hate speech and even violence and can feel unsafe in workplaces, schools and public spaces.



Since 1999, the EU has had the power to act in cases of discrimination based on sexual orientation. Since then, it has adopted legislation and has taken measures to extend legal and social protection for LGBTI people.

In this brochure you can find out what the EU is doing for lesbian, gay, bisexual, transgender and intersex people.

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WHAT THE EU IS DOING

The EU works to combat homophobia and discrimination on the basis of sexual orientation, gender identity and sex characteristics. It aims to ensure that the rights of all LGBTI people are protected in the EU.

As part of its efforts to combat discrimination, in 2015 the European Commission presented a list of actions covering, for example, education, employment, health, free movement, asylum and hate crime.

In order to bring about change, the European Union works hand in hand with the countries of the EU as they are responsible for promoting and enforcing LGBTI rights such as legal recognition of same-sex couples and rules on legal gender recognition.

EU
47 %

Almost half of LGBTI people surveyed across Europe experienced discrimination or harassment.

Source: Eurobarometer – Discrimination in the EU, 2015 and Fundamental Rights Agency – EU LGBT survey, 2013.

PROTECTING YOU FROM DISCRIMINATON AT WORK

Since 2003 it has been **illegal in the EU to discriminate against people in the workplace on the basis of their sexual orientation**. Legislation obliges all the countries in the EU to provide legal protection against discrimination when it comes to applying for a job, promotion or training as well as in matters concerning working conditions, pay and dismissal.

The same protection extends to discrimination and harassment in the field of employment and social security when it is made on the basis of gender reassignment (when a person changed sex because they felt that their gender at birth did not match their gender identity).

WORKING WITH BUSINESSES

To truly advance equality for LGBTI people, however, other actions are needed in addition to laws. In 2010 the EU set up a Platform of Diversity Charters to encourage businesses, public bodies and non-profit organisations to strengthen their commitment to improving diversity. The organisations that participate have agreed to promote diversity and equal opportunities in the workplace, including for LGBTI people.

STAYING SAFE

Hatred against LGBTI people is often spread online and through social media. In order to fight against hate speech online, in 2016 the European Commission agreed with Facebook, Twitter, YouTube and Microsoft on a code of conduct which asks them to review the majority of notifications of illegal hate speech within 24 hours and to remove such content if necessary. Instagram, Snapchat, Dailymotion and jeuxvideo.com signed up to the code of conduct in 2018 and 2019.

Victims of crime deserve to be recognised and treated in a way that is respectful and tailored to each victim's individual needs. The Victims' Rights Directive lays down a set of binding rights for victims and clear obligations on EU countries.

At European Union level, a group of experts from governments, international organisations and civil society is working to combat intolerance and discrimination, including against LGBTI people. The group is helping to develop policies to prevent and combat hate crime and hate speech. For instance, it has issued guidance on ensuring justice, protection and support for victims of hate crime and has also provided guidance and training for police and courts.

The EU wants to ensure that LGBTI people have the same access to healthcare as other people. LGBTI-specific training guides have been produced for healthcare professionals to use. EU countries also work together on prevention, testing and care for vulnerable groups, including LGBTI people, for HIV, sexually transmitted infections, tuberculosis and hepatitis, aiming for earlier diagnosis and better care for all.

National helplines for victims of assault, harassment or abuse are in place in every EU country.

CROSSING BORDERS

All EU citizens have the right to move freely within the EU. This right to freedom of movement aims to make it easier to live, study or work in any other EU country. In practice, however, LGBTI persons can face obstacles when moving across borders. For instance, same-sex couples can struggle to have their relationship or children recognised in a different EU country.

EU law extends the right to freedom of movement, under certain conditions, to the family members of EU citizens, such as their spouses and children, even if they are not themselves EU citizens. The Court of Justice of the European Union has clearly stated that same-sex spouses have the right to reside in another EU country once their partner has become legally established there, even if the host country itself has not put in place same-sex marriages.

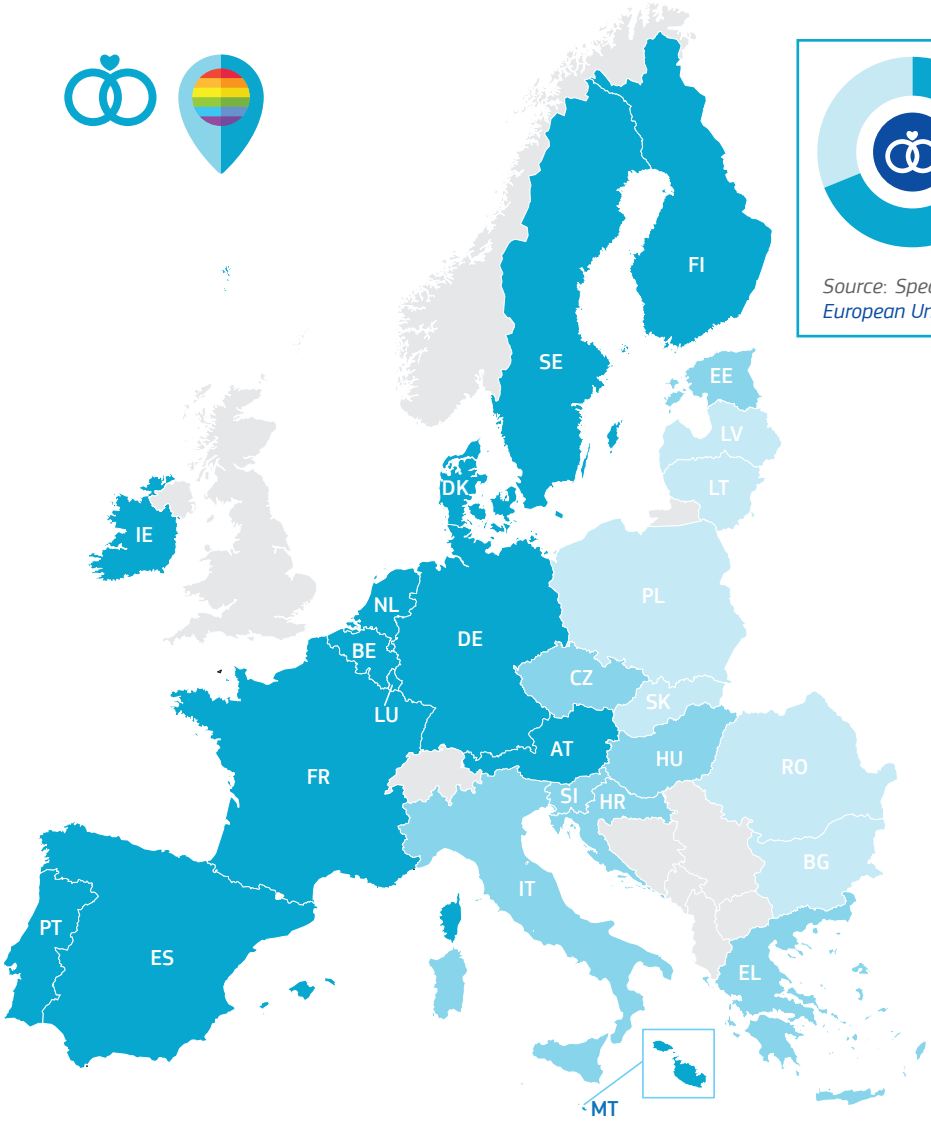
In general, EU countries decide their own laws on marriage, including same-sex marriage and other legally recognised relationships such as civil partnerships. The precise definition of marriage and civil partnerships can therefore differ between countries.

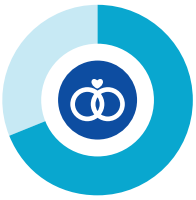
The EU has adopted gender-neutral legislation on family matters that applies to all citizens, including LGBTI citizens. EU rules make it easier to resolve cross-border cases concerning divorce, parental rights, maintenance, inheritance and couples' property regimes. The rules help couples and families to know which Member State courts will deal with their case and which national law will apply, and make it easier to recognise and enforce judgments in another Member State.

PROTECTING AND EXPANDING YOUR RIGHTS

You have rights as an LGBTI person in the EU.

If you think your rights have been breached, you can make a complaint and try to obtain a legal remedy within your national legal system. National courts and tribunals work with the Court of Justice of the European Union to clarify how EU laws should be applied. For more information on how non-discrimination and equal treatment apply in your own country, contact the appropriate national member of the European Network of Equality Bodies. Since not all equality bodies cover sexual orientation, you will need to consult the website for an overview of the issues they tackle. These organisations, as well as non-governmental organisations and trade unions, will be able to help you if you think you have been discriminated against, for instance at work or when applying for a job.





69 % of Europeans believe same-sex marriage should be allowed throughout Europe.

Source: Special Eurobarometer 493 – Discrimination in the European Union, May 2019.

SAME-SEX MARRIAGE/ MARRIAGE EQUALITY
in **13** EU Member States

SAME-SEX REGISTERED PARTNERSHIPS
in **8** EU Member States

NO LEGAL RECOGNITION FOR SAME-SEX COUPLES
in **6** EU Member States

More information on attitudes to the LGBTI community in your Member State can be found here.

KEEPING SCORE

Every year, the European Commission publishes a report to monitor progress on the list of actions to advance equality for LGBTI people in the EU.

The European Commission also monitors how EU laws are implemented and reports on the actions that EU countries have taken to advance LGBTI equality.

As a last resort, the European Commission could, if necessary, take action against an EU country that is not complying with EU law, which could end up in taking the case to the Court of Justice of the European Union. In 2008, the European Commission proposed to extend the protection against discrimination based on sexual orientation to the areas of social protection (including social security and healthcare), education and access to goods and services — which includes housing, for example.

However, this proposal has so far failed to gain the necessary agreement from all Member States. In spite of this, some Member States have already legislated to provide protection that goes beyond what is required under current EU law.

PROMOTING EQUALITY AND SUPPORTING CIVIL SOCIETY

Civil society organisations help promote positive change and this is why the European Commission supports European LGBTI organisations such as ILGA-Europe, part of the International Lesbian, Gay, Bisexual, Trans and Intersex Association, Transgender Europe and IGLYO. The European Commission also financially supports LGBTI organisations at national level through the Rights, Equality and Citizenship Programme and the Erasmus+ programme. This funding helps organisations to raise awareness about the challenges and discrimination that LGBTI people face. For instance, Erasmus+ has supported the 'P.R.I.D.E.' and 'Labels Down' projects, which focused on breaking down stereotypes about the LGBTI community.

Want to know more about your rights at EU level?

The Employment Equality Framework Directive obliges all EU countries to provide legal protection against discrimination and harassment on the basis of sexual orientation in respect of job applications, promotion, training, working conditions and pay and dismissal.

The Gender Recast Directive protects transgender people against discrimination in their professional life arising from gender reassignment.

The Directive on Sex Equality in Social Security protects transgender people against discrimination in social security arising from gender reassignment.

The Victims' Rights Directive creates a set of binding rights for victims and clear obligations on EU countries to ensure they are put into practice.

The EU Free Movement Directive extends the right to freedom of movement, under certain conditions, to the family members of EU citizens, such as their spouses and children, even if they are not themselves EU citizens.

EU CHARTER OF FUNDAMENTAL RIGHTS

Article 21 of the Charter prohibits *'any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation'.*

This article only applies to situations where EU law applies.

FEELING PRIDE AND BEING AN ALLY

Some people may not be aware of the challenges that LGBTI people can face. The EU has financed a series of video testimonies of LGBTI people and their allies across Europe to give people a voice and raise awareness. Each video focuses on a different aspect of identity and shows how support and solidarity with the LGBTI community can really improve people's lives.

The EU institutions support and take part in the International Day against Homophobia, Transphobia and Biphobia, in EuroPride and in other Pride events.

Europeans are proud of their diversity and more and more people are publicly expressing their sexuality or gender identity. Europeans have voted for openly gay leaders, including Luxembourg's Prime Minister, Xavier Bettel (left), and the Irish Taoiseach (Prime Minister), Leo Varadkar (right).

The Brussels headquarters of the European Commission lit with the rainbow flag colours to mark the International Day against Homophobia, Transphobia and Biphobia, 17 May 2019.

EU ACTION WORLDWIDE

In over 70 countries outside the EU, same sex acts continue to be criminalised, and in some countries, gay people even face the death penalty. In other countries LGBTI people do not have enough protection against discrimination and abuses of their human rights.

The EU encourages other countries to ensure that sexual orientation, gender identity or sexual characteristics cannot be grounds for violence or criminal penalties.

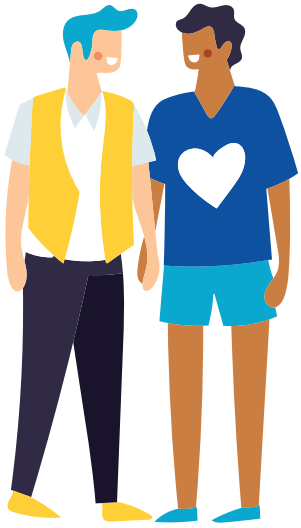
For example, in April 2019, the EU condemned laws in Brunei that punish same-sex relations with death by stoning, imprisonment, or whipping.

'No person should be punished for loving someone. That can never be interpreted as a crime.'

Federica Mogherini, High Representative of the EU for Foreign Affairs and Security Policy and Vice-President of the European Commission, at the European Parliament debate on Brunei on 18 April 2019.

The EU is also a major donor worldwide to projects aimed at combatting discrimination against LGBTI people, mainly through the European Instrument for Democracy and Human Rights. Since 2016, the EU has supported 16 projects implemented by civil society organisations in Asia, Africa, Latin America and eastern Europe, totalling €5.2 million. In 2018 the EU launched a new €10 million fund to support LGBTI activists and organisations in areas where LGBTI people are at greater risk of discrimination.

Countries that wish to join the EU must protect people who face discrimination and violence. Protecting and promoting the rights of LGBTI people remains a priority for the EU in these 'candidate countries', including in the context of negotiations to join the EU. Funding is also provided for networks promoting rights in the western Balkans and Turkey. Additionally, the EU discusses the rights of LGBTI people with the governments of the countries that border the EU (the 'neighbourhood' countries) and monitors the situation on the ground. The EU also gives financial support to organisations working across the 'neighbourhood' region.



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