
European Commission
HOMOMONUMENT
#UnionOfEquality
LGBTIQ
Equality Strategy
2020-2025

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# COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

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

## TOWARDS LGBTIQ EQUALITY: FREE TO BE YOURSELF IN THE EU

*I will not rest when it comes to building a Union of equality. A Union where you can be who you are and love who you want – without fear of recrimination or discrimination.*

*Because being yourself is not your ideology. It's your identity.*

*And no-one can ever take it away.*

**Ursula von der Leyen (President of the European Commission)**
*State of the Union 2020*

Everybody in the European Union should be safe and free to be themselves. Our social, political and economic strength comes from our unity in diversity: Equality and non-discrimination are core values and fundamental rights in the EU, enshrined in its Treaties and in the Charter of Fundamental Rights[1]. Equal opportunities is also one of the key pillars of the European Pillar of Social Rights. The European Commission, the Parliament and the Council, together with Member States, all share a responsibility to protect fundamental rights and ensure equal treatment and equality for all.

In recent decades, legislative developments, case law and policy initiatives have improved many people's lives and helped us building more equal and welcoming societies, including for lesbian, gay, bisexual, trans, non-binary, intersex and queer (LGBTIQ[2]) people. In 2015, the Commission presented the "List of Actions to Advance LGBTI Equality"[3], the first policy framework specifically combatting discrimination against LGBTI people. At national level, 21 Member States[4] have legally recognised same-gender couples, while four have introduced legal gender-recognition procedures without any medical requirements[5].

Recent research also shows that even when greater social acceptance and support for equal rights is present, it has not always translated into clear improvements in LGBTIQ people's lives.

In a 2019 survey, the European Union Agency for Fundamental Rights (FRA) found that discrimination on grounds of sexual orientation, gender identity/expression and sex

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1 See in particular Article 2 of the Treaty on European Union and Article 23 of the Charter of Fundamental Rights. The latter was the first international human-rights charter to explicitly prohibit discrimination on the grounds of 'sexual orientation'.

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

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

4 Austria, Belgium, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Malta, the Netherlands, Portugal, Slovenia, Spain, Sweden.

5 Denmark, Ireland, Luxembourg, Malta.

characteristics was actually increasing in the EU: 43% of LGBT people declared that they felt discriminated against in 2019, as compared to 37% in 2012[6].

Discrimination against LGBTIQ people persists throughout the EU. For several LGBTIQ people in the EU, it is still unsafe to show affection publicly, to be open about their sexual orientation, gender identity, gender expression and sex characteristics (be it at home or at work), to simply be themselves without feeling to be threatened. An important number of LGBTIQ people are also at risk of poverty and social exclusion. Not all feel safe to report verbal abuses and physical violence to the police.

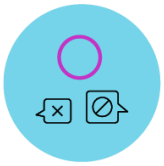
The COVID-19 crisis has brought new pressures for the most vulnerable groups, and LGBTIQ people are no exception. Confinement restrictions have locked many LGBTIQ people, young and old, into hostile environments where they might be at risk of violence or heightened levels of anxiety or deeper depression[7]. Widespread fake news has even blamed LGBTIQ people for the spread of the virus[8].



**46%** of respondents to a survey said they would **not feel comfortable** (totally or moderately) with having an **intersex person elected** to the highest political position.



**57%** of respondents to the same survey said they would **not be comfortable** (totally or moderately) about their children being in a **relationship with a trans person**.



**62%** of intersex respondents to the survey **felt discriminated against** in at least one area of life in the 12 previous months **because of being intersex.**

LGBTIQ people's everyday experience also varies significantly across the EU. Although social acceptance of LGBTI people had rose from 71% in 2015 to 76% in 2019, it had actually gone down in nine Member States[9].

There is also a worrying trend in parts of the EU of more frequent anti-LGBTIQ incidents such as attacks on LGBTIQ public events including Pride marches, so-called declarations of 'LGBTIQ ideology-free zone', and homophobic intimidation at carnival festivities. Civil society organisations protecting and advancing the rights of LGBTIQ people increasingly report that they face hostility, coinciding with the rise of the anti-gender (and anti-LGBTIQ) movement[10]. It is imperative that Member States react quickly to reverse these new developments.

The European Union has to be at the forefront of efforts to better protect LGBTIQ people's rights.

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6 FRA, *EU-LGBTI II - A long way to go for LGBTI equality* (14 May 2020) (FRA, second LGBTI survey).

7 ILGA-Europe found that confinement measures put LGBTIQ people at a higher risk of domestic violence or abuse, and the precarious job and housing situation and lower health outcomes of many LGBTIQ people make them more vulnerable to COVID-19 and its socioeconomic impact (*COVID-19 and specific impact on LGBTI people and what authorities should be doing to mitigate impact*, 2020).

8 United Nations Office of the High Commissioner for Human Rights, *COVID-19 and the human rights of LGBTI people*.

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

10 FRA, *Challenges facing civil society organisations working on human rights in the EU* (29 January 2018).

With this first-ever LGBTIQ equality strategy, the Commission addresses the inequalities and challenges affecting LGBTIQ people, in order to move towards a Union of Equality. It pays particular attention to the diversity of LGBTIQ people's needs and to the most vulnerable, including those experiencing intersectional discrimination and trans, non-binary and intersex people, who are among the least accepted groups in society and generally experience more discrimination and violence than others in the LGBTIQ communities. Discrimination is often multidimensional and only an intersectional[11] approach can pave the way to sustainable and respectful changes in society.



**40%** of respondents to a survey pointed to **ethnic origin or immigrant background** as an additional ground for **discrimination**, besides being LGBTI.



**Geographical remoteness can be an additional vulnerability factor. 47%** of the LGBTI respondents across all groups in the EU live in a big city, **11%** in the suburbs or outskirts of a big city, **30%** in a town or small city, and **13%** in a rural area.

This strategy follows calls for action by Member States[12], the European Parliament[13], with the strong support from the Intergroup for LGBTI Rights, and civil society. It sets out a series of targeted actions across **four pillars**:

1. Tackling discrimination against LGBTIQ people;
2. Ensuring LGBTIQ people's safety;
3. Building LGBTIQ inclusive societies; and
4. Leading the call for LGBTIQ equality around the world.

These targeted actions will be combined with attention to specific LGBTIQ concerns in enhanced equality **mainstreaming** into all EU policies, legislation and funding programmes.

This strategy aims to help lift the voices of LGBTIQ people and to bring together Member States and actors at all levels in a common endeavour to address anti-LGBTIQ equality effectively. It is being adopted at a time where we are witnessing the erosion or back-sliding of fundamental rights in some Member States. Whilst the EU has very high standards in the area of fundamental rights, they are not always equally applied. This strategy complements existing and upcoming initiatives to promote the EU dimension of equality in general[14].

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[11] According to Article 10 of the Treaty on the Functioning of the European Union (TFEU), when 'defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation'. The European Institute for Gender Equality defines 'intersectionality' as an 'analytical tool for studying, understanding and responding to the ways in which sex and gender intersect with other personal characteristics/identities, and how these intersections contribute to unique experiences of discrimination'. This definition applies equally to any form of discrimination.

[12] Joint Non-Paper of 19 Member States (December 2018).

[13] Report on the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity (2013/2183(INI)) (8 January 2014).

[14] These initiatives include: the EU Strategy on victims' rights (COM(2020)258), the Gender equality strategy 2020-2025 (COM(2020)152), the Strategic EU Framework for Roma equality inclusion and participation (COM(620)2020), the European Pillar of Social Rights; the EU anti-racism action plan 2020-2025 (COM(2020)565), the Strategy on the rights of persons with disabilities (planned for Q1 2021), the Strategy

## 1. TACKLING DISCRIMINATION AGAINST LGBTIQ PEOPLE



**19%** of lesbian, gay and bisexual people, **35%** of trans people and **32%** of intersex people felt **discriminated against at work** in the previous year.



**46%** of LGBTI people are **never open** to medical staff or healthcare providers **about being LGBTI**.



**51%** of intersex and **48%** of trans persons, **35%** of lesbians and **31%** of gay men live in households that have **difficulties making ends meet**.

Discrimination affects LGBTIQ people at every stage in life. From an early age, LGBTIQ children and young people, and children of LGBTIQ or rainbow families, where one of the member is LGBTIQ, are often stigmatised, making them targets of discrimination and bullying that affects their educational performance and employment prospects, their daily lives and their personal and family well-being[15].

In employment, LGBTIQ people continue to experience discrimination during recruitment, in the workplace and at the end of their career, contrary to the EU legislation in this area. Many face barriers in finding fair and stable jobs in the first place, which may increase the risk of poverty, social exclusion and homelessness. Recent research has shown that trans people encounter additional barriers when seeking to access the labour market[16].

LGBTI people suffer from high rates of homelessness[17]. Being expelled from the family home and experiencing discrimination in access to housing are the main drivers for becoming homeless, in particular for young LGTBIQ people[18]. An estimated 25-40% of young people experiencing homelessness are identified as LGBTI[19].

Discrimination on grounds of sexual orientation, gender identity/expression and sex characteristic can also have a significant impact on LGBTIQ people's physical, mental and sexual health and their well-being. EU research has demonstrated significant health inequalities between the LGBTIQ community and the population as a whole[20]. In addition, LGBTIQ people are often reluctant to seek healthcare, because they have experienced or fear hostile reactions from health professionals and still struggle to access quality and affordable medication and care, including community and social care. Those who have disabilities, are elderly, migrants, or come from ethnic or religious minority background are

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on the rights of the child (planned for Q1 2021) and the Strategy on combating antisemitism (planned for Q4 2021).

15 UNESCO, *Out in the open: education sector responses to violence based on sexual orientation and gender identity/expression* (2016); NESET II, *How to prevent and tackle bullying and school violence* (2016).

16 European Commission, *Legal gender recognition in the EU: The journeys of trans people towards full equality* (June 2020).

17 LGBTI people are particularly at risk of encountering homelessness, as 4% of trans and intersex respondents indicated that they slept rough or in a public space at least once (*FRA, second LGBTI survey)*.

18 See for example: https://www.feantsa.org/en/newsletter/2017/09/28/autumn-2017?bcParent=27

19 https://www.ilga-europe.org/sites/default/files/COVID19%20_Impact%20LGBTI%20people.pdf

20 LGBTIQ people are at a higher risk of developing certain types of cancer at a younger age or of experiencing mental distress, including suicidal ideation and suicide, and are more likely to be dissatisfied with the healthcare they receive (European Commission, June 2017)

particularly vulnerable to discrimination. The COVID-19 crisis has increased this vulnerability[21].

### 1.1 Enforcing and improving legal protection against discrimination

EU law ensuring legal protection against discrimination is key to advancing LGBTIQ equality, as is the CJEU case law. Such protection falls under different legal frameworks depending on whether the discrimination that LGBTIQ individuals may experience is on the grounds of sexual orientation (anti-discrimination framework) or sex, including gender reassignment[22] (gender equality framework).

The Employment Equality Directive[23] enshrines the right not to be discriminated against, nor be subjected to harassment, in employment contexts on the basis of sexual orientation. In a recent decision, the CJEU clarified that a public statement of a person ruling out recruitment of a person of a certain sexual orientation can constitute prohibited discrimination.[24] While this directive sets out a strong baseline, the impact of its provisions is constrained in two ways: by challenges in application, and by limitations in scope, since the legislation does not go beyond employment.

The Commission will ensure rigorous application by Member States of the rights covered by the Employment Equality Directive and will report on the Directive's application in 2021[25]. The report will also examine whether Member States have followed the Commission's recommendation to consider designating an equality body to address discrimination on the grounds of religion or belief, disability, age and sexual orientation within the scope of application of the Directive[26]. By 2022, the Commission will put forward any legislation required as a result, in particular on the role of equality bodies.

The Gender Equality Directive[27] enshrines the right not to be discriminated against, nor be subjected to harassment, in access to employment, working conditions (including pay) and occupational social security schemes on the basis of sex, including gender reassignment. The principle of equal treatment for men and women precludes dismissal for a reason related to gender reassignment[28]. EU law as confirmed by the European Court of Justice (CJEU) also provides for the right not to be discriminated against on the basis of sex, again including

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[21] For instance, as compared with the population as a whole, higher proportions of LGBTIQ people are unemployed and in precarious jobs, and have access to very limited and unstable financial resources. The crisis has exacerbated the situation, shedding light on the vulnerability of people in precarious jobs and housing conditions. Due to discrimination, stigma and this lower socio-economic status, LGBTIQ people have significantly lower health outcomes, often linked with lower access to comprehensive health insurance, and are therefore more vulnerable to the virus (ILGA-Europe, COVID-19 impact).

[22] 'Gender reassignment' is the term that was in use at the time that the decisions in *P.*, *Richards* , and Case C-117/01, *K.B. v National Health Service Pensions Agency and Secretary of State for Health*, 07.01.2004, ECLI:EU:C:2004:7 were communicated by the CJEU.

[23] Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p. 16).

[24] CJEU Case C-507/18, *NH* v *Associazione Avvocatura per i diritti LGBTI — Rete Lenford*, 23.04.2020, ECLI:EU:C:2020:289.

[25] This report will be presented jointly with the report on Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

[26] Commission Recommendation (EU) 2018/951 on standards for equality bodies (OJ L 167, 04.07.2018, p. 28).

[27] Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ L 204, 26.7.2006, p. 23).

[28] CJEU Case C-13/94, *P* v *S and Cornwall County Council*, 30.04.1996, ECLI:EU:C:1996:170.

gender reassignment in access to goods and services available to the public[29] and in statutory social security[30]. This legal framework does not yet explicitly mention sex characteristics as a prohibited ground for discrimination.

In 2008, the Commission put forward a proposal for an Equal Treatment Directive, which would extend EU legal protection against discrimination on the basis of, among other things, sexual orientation beyond the area of employment and vocational training[31]: it calls on the Council to adopt the proposal in order to close the gaps in EU law protection against discrimination based on sexual orientation.

Research supported by the Commission, the Council of Europe and civil society[32] has shown that Member States have diverging approaches with regard to protecting LGBTIQ people, especially non-binary, intersex and queer people, against discrimination. The Commission will support Member States in stepping up their exchanges of best practice on legal protection against discrimination on the grounds of sexual orientation, gender identity/expression and sex characteristics in various areas. While some Member States have added sex characteristics as a ground for discrimination to their national equality legislation, others have used a broad interpretation of 'sex'[33]. Similarly, the grounds of gender expression features in anti-discrimination legislation in only a few Member States. The Commission is examining how non-binary, intersex and queer people can be better protected against discrimination.

New technologies bring new opportunities to improve the lives of Europeans, but also present new challenges. While artificial intelligence (AI) can be used to address many societal issues, it can also exacerbate real life discrimination, including against LGBTIQ people, and gender inequalities. In particular, as highlighted in a recent Commission policy review, one of the emerging challenges in the field of facial recognition AI systems is the identification of trans faces, especially during transition periods[34]. The Commission is planning to put forward a regulatory framework that will specifically address bias and unjustified discrimination inherent in high-risk AI systems, including biometric systems. It will propose specific requirements, including on documentation, related to the quality of training datasets and testing procedures for bias detection and correction. These requirements would serve to prevent negative discriminatory effects early on, and enable continuous monitoring and vigilance for compliance with existing equality legislation throughout the AI lifecycle.

## 1.2 Promoting inclusion and diversity in the workplace

[29] Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services (L 373, 21.12.2004, p. 37).

[30] CJEU Case C-423/04, *Sarah Margaret Richards v Secretary of State for Work and Pensions*, 27.04.2006, ECLI:EU:C:2006:256.

[31] Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, COM/2008/0426 final.

[32] See ILGA-Europe Rainbow Map and Index 2020.

[33] European Commission, *Trans and intersex equality rights in Europe – a comparative analysis* (November 2018); Council of Europe Commissioner for Human Rights, *Human rights and intersex people* (April 2015).

[34] Keyes, O. (2018), 'The misgendering machines: trans/HCI implications of automatic gender recognition', Proceedings of the ACM on Human–Computer Interaction, 2(CSCW), 88. https://doi.org/10.1145/3274357, as cited in upcoming publication: European Commission, Directorate General for Research and Innovation (2020) *Gendered Innovations: How inclusive analysis contributes to research and innovation.*

Beyond the prohibition of discrimination, diverse and inclusive work environments help to create equal opportunities in the labour market and improve business outcomes. Diversity and inclusion are crucial to stimulating new ideas and fostering an innovative, thriving society. For example, there is a proven correlation between LGBTIQ inclusion and returns on assets, innovation and productivity[35].

The Commission promotes diversity management through the EU Platform of Diversity Charters[36]. The signatories have adopted diversity and inclusion policies, established internal LGBTIQ networks, provided training for their staff, celebrated the International Day against Homophobia, Transphobia, Biphobia and Interphobia (IDAHOT), and participated in national Pride events. LGBTIQ employees can benefit from improved coordination between the EU Platform, national diversity charters and individual businesses. The Commission will continue to foster the creation of national diversity charters and engage in specific efforts to promote LGBTIQ equality through dedicated action in the framework of the EU Platform of Diversity Charters.

The Commission will promote the use of the European Social Fund Plus (ESF+)[37] to improve the socio-economic position of the most marginalised LGBTIQ people and develop initiatives focusing on specific groups, such as the gay, lesbian, bisexual, trans and intersex subgroups. The Commission will gather evidence regarding the barriers to full equality experienced in employment, but also in other areas, such as social protection. This work will feed into guidance for Member States and businesses on enhancing trans and intersex people's participation in the labour market. The Commission will foster the exchange of best practice between the Member States and provide reliable and comparable data in this area with FRA support. The Commission will continue to support measures under the gender equality strategy[38] intended to improve the socio-economic position of women, including those that are relevant for LBTIQ women[39].

Social enterprises, and the social economy at large, can be on the frontline in the tackling of anti-LGBTIQ discrimination. They can develop specific programmes, training and schemes leading to increased inclusion of LGBTIQ people. In 2021, the Commission will publish a European action plan for social economy that will foster the development of these enterprises and organisations, and address how better to include specific marginalised groups in the society, including LGBTIQ people.

The Commission will lead by example as an employer. In the framework of its new human resources strategy, it will continue to strive for a fully inclusive working environment, providing in particular more targeted support and guidance for LGBTIQ staff, as well as significantly improving the use of gender-inclusive language in all communication. The

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[35] See, for example, Li, F., Nagar, V. (2013), 'Diversity and performance', *Management Science* 59, pp. 529-544; Shan, L., Fu, S., Zheng, L. (2016), 'Corporate sexual equality and firm performance', *Strategic Management Journal* 38(9), pp. 1812–1826; and Gao, H., & Zhang, W. (2016), 'Employment non-discrimination acts and corporate innovation', *Management Science* 63(9), pp. 2982–2999.

[36] It is currently composed of 26 national diversity charters representing a network of around 12,000 organisations with over 16 million employees.

[37] Equal opportunities and non-discrimination have to be promoted under the European Social Fund Plus throughout the preparation, implementation, monitoring and evaluation of the programmes. Member States shall also support specific targeted actions to promote these principles.

[38] European Commission, *A Union of Equality: Gender Equality Strategy 2020-2025*, 5.3.2020, COM(2020) 152 final

[39] Action to tackle the gender pay gap may be particularly relevant for LBTIQ households.

Commission invites the other EU institutions to take steps to foster diversity and inclusion in their respective workplaces.

### 1.3 Combating inequality in education, health, culture and sport

The Commission will support the fostering of best practice exchanges between Member States and experts on ensuring safe and inclusive education for all children, young people and adults. For instance, a new expert group[40] developing proposals on strategies for creating supportive learning environments for groups at risk of underachievement and for supporting wellbeing at school, will address gender stereotypes in education, bullying and sexual harassment. In addition, the Commission's upcoming comprehensive Strategy for the rights of the child, will ensure indiscriminate access to rights, protection and services also for LGBTIQ children. Promoting a more inclusive education is in the interests of all students and citizens, and it helps to combatting stereotypes and to building a fairer society for all.

Research on the intersectional experiences of LGBTIQ people, as those who are elderly or with disabilities, is often lacking. Horizon Europe will support gender studies and intersectional research relevant for LGBTIQ people, including on health. The Commission will disseminate the research results, including their recommendations and policy guidance, and organise an EU-wide conference through the EU Health Policy Platform. It will also propose that the Steering Group on Promotion and Prevention (SGPP) considers validated health-related good practice in this area that could be implemented by the Member States.

Member States will be encouraged to organise training for healthcare professionals to raise awareness of the health needs of gay and bisexual men; lesbian and bisexual women; intersex people; and trans people and to avoid discrimination and stigmatisation in access to health services. The training material from the HEALTH4LGBTI project[41] will be further disseminated and offered to Member States. The Commission will encourage and facilitate Member States' exchanges of best practice in addressing the mental health challenges faced by a significant number of LGBTIQ people.

Gender biases and other stereotypes are among the main drivers of negative or hostile attitudes towards LGBTIQ people in many communities. In particular, they can lead to the exclusion and stigmatisation of anyone who does not conform to fixed norms/images of women and men, such as non-binary and queer people. The media, cultural and sport sectors are powerful tools changing attitudes and challenging gender biases and other stereotypes.

The Commission will support projects that use cultural expression to tackle discrimination, build trust and acceptance, and promote the full inclusion of LGBTIQ people. The Commission will enhance LGBTIQ equality mainstreaming in relevant employment, education and health initiatives (in particular those regarding mental health initiatives and HIV/AIDS prevention) and EU funding programmes (e.g. EU4Health and Erasmus+). The future Europe's Beating Cancer Plan will take into account the situation of vulnerable groups, including LGBTIQ people. Projects that tackle intersectional discrimination and

[40] This expert group is an initiative included in the Communication on Achieving the European Education Area by 2025 (COM(2020)625 final).

[41] https://ec.europa.eu/health/social_determinants/projects/ep_funded_projects_en#fragment2

inequality experienced by LGBTIQ people, gender biases and other stereotypes can be funded through the 'Citizens, Equality, Rights and Values' programme.[42]

Erasmus+ finances projects that help enable and empower young people facing discrimination because of their gender or sexual orientation, and other social obstacles. Likewise, the European Solidarity Corps can promote solidarity activities geared to tackling racism and discrimination, and broaden participation. For the new programming period, particular attention will be paid to inclusion, equality and diversity in the Erasmus+ and European Solidarity Corps Programmes. It will set out a multi-faceted approach to making the programme more inclusive and improving outreach to people with fewer opportunities, including through the introduction of more flexible and accessible formats; support measures to help prepare and accompany participants; and financial measures to address the barriers faced by under-represented groups in taking part in the programmes.

### 1.4 Upholding the rights of LGBTIQ applicants for international protection

The common European asylum system addresses the specific situation and needs of vulnerable (including LGBTIQ) applicants for international protection[43]. The Commission has made proposals to reform the common European asylum system by making it more resilient and effective while respecting the protection needs of such applicants[44].

The Commission will foster good practice exchanges between the Member States on addressing the needs of LGBTIQ applicants for international protection, focusing on:

- how to guarantee safe and suitable reception conditions, including accommodation, for LGBTIQ applicants for international protection;
- protection standards that apply in relation to their detention (where applicable); and
- how to prevent the examination of their applications from being influenced by anti-LGBTIQ discrimination and/or stereotypes.

The European Asylum Support Office will improve training for protection officers and interpreters to ensure that the examination of LGBTIQ people's applications for international protection is not influenced by stereotypes and is in line with international/EU law and other relevant instruments[45].

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[42] Other EU programmes, such as the Aid Programme for the Turkish Cypriot community, are also actively supporting projects tackling discrimination and exploitation of LGBTIQ people.

[43] Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011, p. 9); Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60); and Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ L 180, 29.6.2013, p. 96).

[44] *Communication from the Commission on a New Pact On Migration and Asylum*, COM(2020) 609 final.

[45] "In many parts of the world, individuals experience serious human rights abuses and other forms of persecution due to their actual or perceived sexual orientation and/or gender identity. While persecution of [LGBTI] individuals and those perceived to be LGBTI is not a new phenomenon, there is greater awareness in many countries of asylum that people fleeing persecution for reasons of their sexual orientation and/or gender identity can qualify as refugees under Article 1A(2) of the [1951 Convention] and/or its 1967 Protocol … Nevertheless, the application of the refugee definition remains inconsistent in this area". (UNHCR, *Guidelines on international protection No 9: Claims to refugee status based on sexual*

In discussions with the Member States on Asylum and Migration Fund funding priorities, the Commission will highlight the need to build capacity to uphold the rights of applicants for international protection and other migrants.

The European Commission will ensure synergy in the implementation of the LGBTIQ equality strategy and the EU action plan on integration and inclusion. One of the core principles of the new action plan will be "Inclusion for all". It will take into account the challenges arising from the intersection between the migrant status and other factors of discrimination, such as sexual orientation and gender.

**Key actions by the European Commission:**

- ✓ propose by 2022 any legislation following up to the upcoming report on the implementation of the Employment Equality Directive, in particular to strengthen the role of equality bodies;
- ✓ ensure appropriate protection of vulnerable (including LGBTIQ) applicants in the context of the common European asylum system and its reform;
- ✓ ensure support for LGBTIQ equality in action under the Asylum and Migration Fund;
- ✓ support health research of relevance to LGBTIQ people, including the trans and intersex communities, through Horizon Europe.

**The European Commission will support the Member States to:**

- ✓ ensure legal protection against discrimination on the grounds of sexual orientation, gender identity/expression and sex characteristics in various areas;
- ✓ improve safe and inclusive education for LGBTIQ children and youth;
- ✓ address the specific needs of LGBTIQ applicants for international protection while ensuring safe reception, detention and accommodation conditions;
- ✓ improve the training of protection officers and interpreters dealing with asylum claims by LGBTIQ people.

*orientation and/or gender identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the status of refugees,* HCR/GIP/12/09, 23 October 2012).

## 2. ENSURING LGBTIQ PEOPLE'S SAFETY



**38%** of LGBTI people have experienced **hate-motivated harassment** for being LGBTI in the 12 months preceding the survey.



**22%** of intersex people have experienced a **physical and/or sexual attack** for being intersex, in the past 5 years.



**Only 21%** of LGBTI victims of **hate-motivated physical or sexual violence** in the past 5 years **lodged a report** to any organisation, including the policy and equality bodies.

Everyone has the right to safety, be it at home, in public or online. LGBTIQ people suffer disproportionately from hate crime, hate speech and violence[46]. To combat online hate speech, in 2016 the Commission reached an agreement with IT companies on a voluntary code of conduct[47]. Evaluations on the implementation of the code show that sexual orientation is the most commonly reported ground of hate speech (33.1%)[48]. The COVID-19 crisis has led to yet higher levels of hatred, violence and discrimination against LGBTIQ people, and the polarisation of society as a whole[49].

At the same time, the under-reporting of hate crimes to the police or other organisations remains a serious problem, stemming from a lack of trust in law enforcement, fear of LGBTIQ-phobic reactions[50] or victim-blaming, previous negative experiences in contacts with the police or not expecting them to do anything.

Rights advocates face threats and peaceful marches are met with hatred. Too often, LGBTIQ people are abused as scapegoats in political discourse, including during election campaigns. Resolutions on a 'zone free from LGBT' aim to deny fundamental rights and freedoms to the LGBTIQ community. The labelling of LGBTIQ as an 'ideology' is spreading in online and offline communication[51] and the same is true with regard to ongoing campaigning against the so-called 'gender ideology'. LGBTIQ-free zones are humanity free zones, and they have no place in our Union.

### 2.1 Reinforcing legal protection for LGBTIQ people against hate crime, hate speech and violence

Legal protection against anti-LGBTIQ hate crime and hate speech varies significantly between Member States[52]. Through the EU High-Level Group on combating racism,

46 FRA, second LGBTI survey. See footnote 6.

47 Code of conduct on countering illegal hate speech online, 30 June 2016.

48 European Commission, *Countering illegal hate speech online: 5th evaluation of the Code of Conduct, 22 June 2020.*

49 In recent years, hateful rhetoric in public discourse has been on the rise, translating into real hate on the street, including against LGBTIQ people. For instance, ILGA-Europe received reports of religious leaders blaming LGBTI communities for the pandemic from at least four EU Member States. (ILGA-Europe, COVID-19 impacts on LGBTI communities in Europe and Central Asia: A rapid assessment report, June 2020)

50 FRA, second LGBTI survey, p. 49. See footnote 6.

51 See, for example, FRA, *Fundamental rights report 2019* (29 May 2019) and ILGA-Europe, *Annual review of the human rights situation of lesbian, gay, bisexual, trans and intersex people 2019* (February 2019).

52 At present, seven Member States do not expressly include sexual orientation in hate speech and/or crime legislation as an aggravating factor, 15 do not include gender identity and 25 do not cover sex characteristics.

xenophobia and other forms of intolerance, the Commission will organise targeted discussions with national authorities and civil society to exchange best practice on implementing national legislation in these areas.

At European level, while the EU has adopted legislation criminalising hate crime and hate speech based on racism and xenophobia[53], there is no specific EU-level sanction for anti-LGBTIQ hate speech and hate crime. As a first important step, in 2021, the Commission will present an initiative to extend the list of 'EU crimes' under Article 83 (1) of the Treaty on the Functioning of the European Union (TFEU) to cover hate crime and hate speech, including when targeted at LGBTIQ people.

The Commission will also take action to tackle gender-based violence, as announced in the gender equality strategy. The 'Citizens, Equality, Rights and Values' programme is expected to fund projects aimed at preventing and combating anti-LGBTIQ hate crime, hate speech and violence, while the Justice programme will provide funding opportunities to promote the rights of victims of crime, including LGBTIQ people.

### 2.2 Strengthening measures to combat anti-LGBTIQ online hate speech, disinformation

The Commission will propose a Digital Services Act before the end of 2020. While the proposal will not define what is considered illegal speech, it will aim to address more effectively all types of illegal content hosted on various types of platforms, ensuring respect for fundamental rights, including freedom of expression. The Commission will also expand its engagement and cooperation with IT companies and platforms, including in the context of the implementation of the code of conduct.

The Commission will ensure the correct transposition and rigorous application of the revised Audiovisual Media Services Directive, which strengthens protection against content that incites to hatred or violence and bans audiovisual commercial communications that include or promote any discrimination, including on the grounds of sex and sexual orientation. In 2020, the Commission will adopt a European democracy action plan to tackle key challenges, including the fight against disinformation, protection from external interference and manipulation in elections, media freedom and pluralism.

### 2.3 Reporting of anti-LGBTIQ hate crime and exchanges of good practices

The Commission will continue to promote a safe environment in which LGBTIQ victims can report crime, and better protection and support for victims of gender-based violence, domestic violence and anti-LGBTIQ hate crime. Under the EU strategy on victims' rights (2020-2025)[54], it will help the Member States to ensure that victim support services, including safe houses, are available and accessible to LGBTIQ people. The Commission will also promote integrated and targeted support to victims with special needs, including LGBTIQ victims of hate crime, through EU funding possibilities.

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[53] The Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law does not explicitly cover anti-LGBTIQ hate crime and hate speech, and does not include targeting sexual orientation or gender identity among the defining characteristics of hate crime and hate speech. (OJ L 328, 6.12.2008, p. 55).

[54] European Commission, *EU Strategy on victims' rights (2020-2025)*, 24.6.2020, COM(2020) 258 final

The Commission will continue to work with the Member States to ensure full and correct implementation of the Victims' Rights Directive, following up on the May 2020 implementation report[55]. The Commission will raise awareness of victims' rights through an EU-wide communication campaign and facilitate the exchange of good practices (such as setting up of 'rainbow desks' at local police stations[56]).

Through closer cooperation with the EU Agency for Law Enforcement Training (CEPOL), and with the Council of Europe, Member States and civil society, in a new working group on hate-crime training and capacity-building for law enforcement, the Commission will support training to help law enforcement personnel identify and record LGBTIQ-phobic bias and increase crime reporting.

### 2.4 Protecting and promoting LGBTIQ people's bodily and mental health

Harmful practices such as non-vital surgery and medical intervention on intersex infants and adolescents without their personal and fully informed consent (intersex genital mutilation)[57], forced medicalisation of trans people and conversion practices targeting LGBTIQ people[58] may have serious bodily and mental health repercussions. The Commission will foster Member States' exchange of good practice on ending these practices. Forced abortion and forced sterilisation and other harmful practices against women and girls are forms of gender-based violence and serious violations of women's and children's rights. The Commission will also include an intersectional perspective in the Recommendation on harmful practices against women and girls announced in the Gender equality strategy 2020-2025.

**Key actions by the European Commission:**

- ✓ present an initiative in 2021 to extend the list of 'EU crimes' (Article 83 TFEU) to cover hate crime and hate speech, including when targeted at LGBTIQ people;
- ✓ provide funding opportunities for initiatives that aim to combat hate crime, hate speech, violence and harmful practices against LGBTIQ people ('Citizens, Equality, Rights and Values' programme) and promote the rights of victims of crime, including LGBTIQ people ('Justice' programme);
- ✓ table a Recommendation on the prevention of harmful practices against women and girls.

**The European Commission will support the Member States to:**

- ✓ exchange best practice on protection against hate speech and hate crime against LGBTIQ people;
- ✓ promote a safe and supportive environment for LGBTIQ victims of crime;
- ✓ improve training and capacity-building for law enforcement to better identify and record

[55] Report from the Commission to the European Parliament and the Council on the implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, (COM(2020) 188 final), 11 May 2020.

[56] The setting-up of rainbow desks' is proposed in the framework of the implementation of the Victims' rights strategy (COM(2020)258 final).

[57] 62% of intersex people who had undergone a surgery said neither they nor their parents gave fully informed consent before first medical treatment or intervention to modify their sex characteristics (*FRA, second LGBTI survey, p. 54)*.

[58] Conversion practices "are deeply harmful interventions that rely on the medically false idea that LGBT and other gender diverse people are sick, inflicting severe pain and suffering, and resulting in long-lasting psychological and physical damage"; (United Nations Independent Expert on protection against violence and discrimination based on Sexual Orientation and Gender Identity, *Report on conversion therapy*, 1 May 2020.

LGBTIQ-phobic bias and increase crime reporting.

## 3. BUILDING LGBTIQ INCLUSIVE SOCIETIES



**53%** of LGBTI people are almost **never or rarely open** about being LGBTI.



**21** Member States recognise the **unions** of same-gender couples, while **15 Member States** provide for **adoption** by same-gender couples.



**Legal gender recognition** based on self-determination applies in **4** Member States.

The Charter of Fundamental Rights enshrines the right to respect for private and family life, as well as the right for children to protection and care as is necessary for their well-being. There is a wide range of family models in the EU, including rainbow families with one or more LGBTIQ members. Due to differences in family law across Member States, family ties may cease to be recognised when rainbow families cross the EU's internal borders. This situation has been exacerbated by the COVID-19 confinement measures. Some rainbow families' difficulties in having their documents and relationships legally recognised, have led to additional problems during the pandemic, as countries closed their borders. In some cases, people have been blocked at borders and being prevented from joining their families during the confinement[59].

Trans, non-binary and intersex people are often not recognised in law or in practice, resulting in legal difficulties for both their private and family life, including in cross border situations.

### 3.1 Ensuring rights for LGBTIQ people in cross border situations

EU free movement law, in particular the Free Movement Directive[60], recognises the right of all EU citizens and their family members, including registered partners and rainbow families, to move and reside freely in the EU[61].

The Commission will continue to ensure the correct application of free movement law, including to address specific difficulties preventing LGBTIQ people and their families from enjoying their rights. This includes dedicated dialogues with Member States in relation to the implementation of the *Coman* judgment, in which CJEU clarified that the term 'spouse'

[59] ILGA-Europe, COVID-19 impact.

[60] Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

[61] Subject to the terms of the Treaties and the measures adopted to give them effect.

as used in the Free Movement Directive also applies to same-sex partners[62]. If necessary, the Commission will take legal action.

In order to improve legal certainty for EU citizens exercising their free movement rights, and to ensure a more effective and uniform application of the free movement legislation across the EU, the Commission will review the 2009 guidelines on free movement, in 2022. The reviewed guidelines will reflect the diversity of families, and hence contribute to facilitating the exercise of free movement rights for all families, including rainbow families[63]. The Commission will continue to gather evidence of the issues experienced in reality by LGBTIQ people and their families in cross-border situations.

Substantive family law falls under the competence of Member States. EU legislation on family law applies in cross-border cases or in case with cross border implications and it covers LGBTIQ people. This includes rules to facilitate Member States' recognition of each other's judgments on divorce, parental responsibilities and rights (including child custody and visiting rights), maintenance (for couples and children), property owned in the context of marriage and registered partnerships, and succession matters (for couples and children).

The Commission will ensure the rigorous application of cross-border family law vis-à-vis rainbow families by strengthening its focus on this group in monitoring their implementation.

### 3.2 Improving the legal protection for rainbow families in cross-border situations

National legislation in over half the Member States contains provisions applying to rainbow parents. However, and despite existing EU law as interpreted by the Court of Justice, when these families travel or move to other Member States, there is sometimes a risk of children's link to their LGBTIQ parent(s) being severed, which may have an impact on the children's rights[64]. Married and registered partners may also experience difficulties in travelling and moving to another Member State.

The Commission will push for mutual recognition of family relations in the EU. If one is parent in one country, one is parent in every country. In 2022, the Commission will propose a horizontal legislative initiative to support the mutual recognition of parenthood between Member States, for instance, the recognition in one Member State of the parenthood validly attributed in another Member State.

In addition, the Commission will continue to support the Member States' efforts to uphold respect for rainbow families' rights as enshrined in the EU Charter of Fundamental Rights (in particular the right to private and family life and the rights of the child), which applies when implementing EU law. It will explore possible measures to support the mutual recognition of same-gender spouses and registered partners' legal status in cross border situations.

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[62] CJEU Case C- 673/16, *Coman*, 5.6.2018, ECLI:EU:C:2018:385. In this judgment, the Court of Justice ruled that the term 'spouse' (as used in the Free Movement Directive) also applies to a person of the same sex as an EU citizen to whom he or she is married.

[63] More details will be announced in the upcoming Citizenship Report.

[64] Lack of mutual recognition of child-parent relationships may lead to children being denied citizenship, a name or inheritance rights. Moreover, unrecognised parents may be unable to act as their children's legal representatives, travel alone with them, enrol them in schools, provide health insurance, open a bank account or consent to medical interventions.

### 3.3 Improving the recognition of trans and non-binary identities, and intersex people

Requirements applying to individuals who wish to change their legal gender differ substantially by Member State. In recent years, a growing number of Member States have significantly changed their legislation on gender-recognition towards a model of personal self-determination. Others retain a number of requirements for the purpose of recognition of trans and non-binary people's gender. These may not be proportionate, and may violate human rights standards, as decided by the European Court of Human Rights in case of surgical[65] and sterilisation[66] requirements.

The Commission will foster best practice exchanges between Member States on how to put in place accessible legal gender recognition legislation and procedures based on the principle of self-determination and without age restrictions.

The Commission will launch a cross-sectoral dialogue with diverse stakeholders, including the Member States, businesses and healthcare professionals, to raise awareness of trans and non-binary identities, and intersex people, and encourage inclusivity in all relevant actions and procedures, including within the Commission.

### 3.4 Fostering an enabling environment for civil society

The Commission will provide funding to foster a conducive, sustainable environment for LGBTIQ civil society organisations. This strategy refers to the relevant EU funding programmes and their funding priorities for LGBTIQ equality. In addition to project-based funding, the 2021-2027 'Citizens, Equality, Rights and Values' programme will increase small and medium-sized organisations funding opportunities' and make operational grants available to networks promoting LGBTIQ equality. EU funds need to contribute to building a non-discriminatory society and back the Commission's efforts to ensure a Union of Equality.

In addition, the Commission will maintain and encourage structured, open dialogue and consultation with civil society in law and policy-making, in particular to discuss the implementation of the strategy. It will promote a dialogue with the Member States, EU agencies, social partners and the private sector to help inform the further development of policies to tackle discrimination against LGBTIQ people. The Commission will continue to raise awareness on the need for LGBTIQ equality and non-discrimination, and participate in public events that constitute milestones for the LGBTIQ community.

Young people play a critical role in building inclusive societies. Together with the Member States, the Commission collected their opinion through the EU youth dialogue process, which led to 11 European youth goals[67] that call (among other things) the equality of all genders and for inclusive societies. These youth goals reflect young European's views and present a vision for a Europe that enables them to realise their full potential, while helping to reduce the obstacles that prevent those with fewer opportunities from participating in the social and economic life.

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[65] S.V. v. Italy, Application no. 55216/08, 11 October 2018

[66] A.P., Garçon and Nicot v. France, Applications nos. 79885/12, 52471/13 and 52596/13, 6 April 2017

[67] https://ec.europa.eu/youth/policy/youth-strategy/youthgoals_en; these are included in the EU's youth strategy 2019-2027.

**Key actions by the European Commission:**

- ✓ review the 2009 guidelines on free movement in 2022 to reflect the diversity of families and contribute to facilitating the exercise of free movement rights for all families, including rainbow families;
- ✓ propose a horizontal legislative initiative on the mutual recognition of parenthood between Member States;
- ✓ explore possible measures to support the mutual recognition of same-gender partnership between Member States;
- ✓ make funding opportunities available, in particular through the 'Citizens, Equality, Rights and Values' programme.

**The European Commission will support the Member States to:**

- ✓ put in place accessible legal gender recognition legislation and procedures;
- ✓ improve the inclusion of trans, non-binary and intersex people in relevant documentation, applications, surveys and processes;
- ✓ rigorously apply the right to free movement and EU rules on family law.

## 4. LEADING THE CALL FOR LGBTIQ EQUALITY AROUND THE WORLD

LGBTIQ rights are human rights and LGBTIQ people should be able to fully enjoy their rights everywhere, at all times.

Nonetheless, in various parts of the world, the situation of LGBTIQ people remains highly precarious, as they experience serious rights violations and abuses without access to justice. Many face discrimination, harassment, persecution, incarceration or even murder or the death penalty[68] – simply for being who they are. The Commission and the European External Action Service (EEAS) are committed to protecting them and enabling them to assert their rights. The situation of LGBTIQ people also varies considerably between countries. A tailor-made approach is necessary to maximise the impact of EU support, using all tools at our disposal. The EU conducts political dialogues with partner countries to address discriminatory laws, policies and practices against LGBTIQ people, and decriminalise same-gender relations and trans identities. It will lead by example, showing solidarity and building resilience in the protection and advancement of LGBTIQ people's rights around the world, and contributing to a global recovery which empowers all to thrive socially, economically and politically and leaves no one behind.

Increasingly, human rights defenders are risking their lives to advance LGBTIQ equality. Hostile or life-threatening situations often force LGBTIQ people to flee their countries of origin. A strong commitment to promoting and protecting human rights lies at the heart of all the EU's activities. It is important that the EU's internal and external actions in this area are consistent and mutually reinforcing. The EU will advance its global leadership in protecting the universality and indivisibility of human rights for all, including LGBTIQ people.

[68] Same-gender relationships are still criminalised in 72 countries. (Human Rights Council, *Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity*, 11 May 2018)

Regardless of the motives for their asylum claim, LGBTIQ asylum-seekers are often exposed to additional dangers on arrival in the EU and have needs that may differ from those of other asylum-seekers[69].

### 4.1 Strengthening the EU's engagement on LGBTIQ issues in all its external relations

The EU will strengthen its engagement on LGBTIQ issues in its external relations at both political and technical level. It will make specific efforts to combat violence, hatred and discrimination and ensure that LGBTIQ rights are upheld in partner countries.

As regards candidate countries, and potential candidates including in the context of accession negotiations and the stabilisation and association process, the Commission will press for LGBTIQ equality in the political dialogue and support measures to tackle violence, hatred and discrimination against LGBTIQ people including support for civil society organisations through the Instrument for Pre-accession Assistance (IPA). It will also support the monitoring and data collection on the situation of LGBTIQ people in the region and continue to monitor and report on their situation in the annual enlargement package of country reports.

The Commission will share best practices on tackling discrimination and advancing LGBTIQ rights beyond the boundaries of the EU through its cooperation and engagement with the Council of Europe, the United Nations, and other relevant international and regional bodies.

The 2020-2024 Action Plan on human rights and democracy[70] renews the EU's commitment and calls for action to combat all forms of discrimination, with a specific focus on multiple and intersecting forms of discrimination. It condemns discriminatory laws, policies and practices, including the criminalisation of same-gender relations. The EU will take action on LGBTIQ equality in international fora, build international partnerships based on the principles of equality and non-discrimination and engage regularly with partner countries in political and human rights dialogues in line with its guidelines to promote and protect LGBTI people's human rights[71], in line with its human rights guidelines on non-discrimination in external action[72].

Local civil society organisations working on the frontline to promote and protect LGBTIQ rights will be backed by EU funding.

The Commission will continue to support national, regional and global programmes in favour of LGBTIQ human rights defenders and their organisations. For instance, support is being provided to increase capacities to:

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[69] LGBTIQ asylum-seekers are at particular risk of discrimination, exclusion, harassment and violence, including sexual violence, in reception and detention centres, and when being interviewed. They may be deprived of appropriate legal assistance or vital healthcare, such as ongoing hormone treatment. See, for example, UNCHR, *Protecting persons with diverse sexual orientations and gender identities: a global report on UNHCR's efforts to protect lesbian, gay, bisexual, transgender, and intersex asylum-seekers and refugees*, (December 2015).

[70] *EU Action Plan on Human Rights and Democracy 2020-2024*, JOIN(2020) 5 final.

[71] Council, *Guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex (LGBTI) persons* (24 June 2013).

[72] Council, *EU human rights guidelines on non-discrimination in external action* (6337/19, 18 March 2019).

- build powerful movements across the globe;
- strengthen local, national and regional human rights initiatives; and
- form regional alliances in enlargement and neighbourhood regions, Africa, Asia and the Pacific, and Latin America and the Caribbean.

The EU will continue to offer a rapid response to protect individual LGBTIQ rights defenders. The Commission will continue to strive to ensure that humanitarian aid remains gender- and age-sensitive, is adapted to the needs of different gender and age groups (including LGBTIQ communities/individuals) and is in line with humanitarian principles, including that of impartiality (non-discrimination). Finally, the EU's 2021-2025 Action Plan on gender equality and women's empowerment in external relations (GAP III) will be built, among others, on the principle of intersectionality and promotes equality for women and men in all their diversity.

The COVID-19 crisis has also compounded discrimination and violence against LGBTIQ people beyond Europe's borders. In its 'Team Europe' global response to COVID-19 of 8 April 2020, the EU took a human rights-based approach, aiming to 'build back better' and support fairer, more inclusive and sustainable societies and implement the Agenda 2030, in the principle of leaving no-one behind[73]. The EU is prioritising health and socio-economic measures, e.g. ensuring that support and essential social services remain available to all, and will continue to promote and uphold human rights, equality and non-discrimination, decent work conditions, the fight against violence, as well as fundamental values in this context.

**Key actions by the European Commission:**

- ✓ implement actions supporting LGBTIQ rights in line with the 2020-2024 Action Plan on human rights and democracy and with the EU Guidelines to promote and protect the enjoyment of all human rights by LGBTI persons;
- ✓ ensure support for LGBTIQ equality in action under the NDICI and IPA funds.

## 5. DELIVERING ON THE STRATEGY: MAKING FULL USE OF EU INITIATIVES

To achieve the objectives set out in the strategy, the Commission will combine the targeted actions outlined above, with enhanced equality mainstreaming. The Commission will ensure that the combatting of discrimination affecting LGBTIQ people as well as the promotion of equality is integrated into all EU policies, legislation and funding programmes, both internal and external. This will be facilitated by the first-ever European Commissioner for Equality and the dedicated Task Force for Equality.

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

[73] European Commission, *Communication on the Global EU response to COVID-19*, 8.4.2020, JOIN(2020) 11 final: https://ec.europa.eu/international-partnerships/system/files/joint-comm-2020-eu-global-response_en.pdf

women can experience discrimination both as women and as a LBTIQ person. LGBTIQ people with disabilities can face additional difficulties to obtain support and information, and to participate fully in the LGBTIQ community and society at large, because of a lack of accessibility, thus compounding their exclusion[74]. LGBTIQ persons with disabilities need accessibility to information about support and rights in accessible and alternative formats, as well as accessibility of LGBTIQ spaces, places and support networks.

The strategy also addresses the inequalities highlighted by the COVID-19 crisis, which has disproportionately affected vulnerable LGBTIQ people. As part of this work, the Commission will encourage Member States to make full use of the possibilities offered by Next Generation EU to mitigate the disproportionate impact of the crisis and advance LGBTIQ equality. In addition, the European Commission will stand ready to help Member States mainstreaming equality in the design and implementation of reforms through the Technical Support Instrument.[75]

EU funding is key to support the implementation of EU policies in the Member States. EU funds managed by the Member States have to benefit all EU citizens without any form of discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age and sexual orientation. Through rigorous monitoring, the Commission and the Member States must ensure that EU funds contribute to equality and that all EU-funded projects comply with EU law, including the Treaties and the Charter of Fundamental Rights. If projects violate EU anti-discrimination rules, funding may be suspended or withdrawn. The Commission's proposal for a new Common Provisions Regulation (CPR)[76] setting out rules for the 2021-2027 programming period contains an 'enabling condition'[77] relating to the Charter. In addition, Member States are required to establish and apply criteria and procedures for the selection of projects which are non-discriminatory and take account of the Charter.

Reliable and comparable equality data will be crucial for assessing the situation of LGBTIQ people and to effectively tackling inequalities. The Commission will invite the Fundamental Right agency (FRA) and the European Institute for Gender Equality (EIGE) to continue providing Member States with technical assistance and methodological support on the design and implementation of data-collection exercises on LGBTIQ people both on single and multiple grounds. It will also support the collection of detailed intersectional data by the FRA, the EIGE and the Member States, in particular through the equality data subgroup of the High-Level Group on non-discrimination, equality and diversity.

In addition, the Commission will organise a round table on equality data bringing together key stakeholders to examine obstacles to the collection of data relating to racial or ethnic origin and identify paths to a more harmonised approach, including on intersectional data as regards, for instance, racial or ethnic origin and sexual orientation.

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[74] The UN Convention on the Rights of Persons with Disabilities, to which the EU and all Member States are party, establishes general principles that include the rights of people with disabilities to respect for their inherent dignity, individual autonomy (including the freedom to make one's own choices), accessibility, full and effective participation and inclusion in society.

[75] The establishment of the Technical Support Instrument is subject to the agreement of the European Parliament and of the Council on the proposal for a Regulation establishing a Technical Support Instrument, COM(2020) 409 final.

[76] COM(2018)375 final.

[77] In Annex III of the CPR.

The Commission (Eurostat) will continue its work on equality data, in general by addressing the issue directly with Member States in technical meetings with national statistical offices, where relevant. Eurostat will provide the Commission services with methodological support in assessing the possibility of collecting statistical data on LGBTIQ people made available on a voluntary basis by Member States.

A new Eurobarometer on discrimination in the EU will be published in 2023. The Commission will also encourage the FRA to conduct a comprehensive LGBTIQ survey in 2024.

Member States are encouraged to build on existing best practice[78] and develop their own action plans on LGBTIQ equality. The objective will be to step up protection against anti-LGBTIQ discrimination, to ensure follow-up at the national level of the objectives and actions set out in this strategy and to complement them with measures to advance LGBTIQ equality in areas of Member State competence. The Commission will also continue to support and make visible cities' efforts to put in place robust inclusion policies at local level, including through the annual designation of European capital(s) of inclusion and diversity.

Beyond delivering on the key actions set out in this strategy, the Commission will set up an LGBTIQ equality subgroup under the High-Level Group on non-discrimination, equality and diversity to support and monitor progress in the Member States, including as regards the development of national action plans on LGBTIQ equality. It will organise regular meetings, at political and expert level, with civil society and the Member States, and will take part in the work of the Council of Europe governmental LGBTI focal points network. It will regularly monitor the implementation of the actions presented in this strategy and present a mid-term review in 2023.

**Key actions by the European Commission:**

- ✓ assess and monitor the fulfilment of the enabling condition related to the Charter of Fundamental Rights, as provided in the Commission's proposal for a new Common Provisions Regulation (CPR);
- ✓ monitor the implementation of EU-funded programmes to ensure that they respect equality principles and comply with EU law, including the Treaties and the Charter of Fundamental Rights;
- ✓ invite the FRA and the EIGE to continue providing Member States with technical assistance and methodological support on the design and implementation of data-collection exercises on LGBTIQ people.

**The Commission will support Member States to:**

- ✓ develop national plans on LGBTIQ equality.

## 6. CONCLUSION: WORKING TOGETHER FOR LGBTIQ EQUALITY

[78] As reflected in the annual reports of the 2015-2019 List of actions by the Commission to advance LGBTI equality, Member States have reported on the development of their own national LGBTIQ equality action plans. Such action plans are valuable as they constitute a political commitment to address anti-LGBTIQ discrimination, accompanied by concrete actions to advance equality.

This strategy is based on a vision of a Europe where people, in all their diversity, are equal – where they are free to pursue their life regardless of their sexual orientation, gender identity/expression or sex characteristics.

While Europe has made step-by-step progress over recent years, this LGBTIQ equality strategy marks a new phase in our efforts to promote equality for lesbian, gay, bisexual, trans, non-binary, intersex and queer people while continuing to focus on priority areas. In addition, it emphasises the need to integrate a LGBTIQ equality perspective into all EU policies as well as into EU funding programmes.

Combating inequality in the EU is a shared responsibility, it requires joint efforts and action at every level. EU institutions and agencies, Member States, including regional and local authorities, equality bodies, civil society, and businesses must strengthen their engagement to achieve the strategy's objectives.

All institutions should set out a clear commitment to pursue a common strategy. The Commission invites the European Parliament to renew its commitment and support the implementation of the strategy and the Council to adopt Conclusions as a follow-up to the strategy. It calls on the Committee of the Regions and the European Economic and Social Committee to promote dialogue with local and regional authorities and civil society, including social partners, on how to advance LGBTIQ equality. Through regular surveys, technical assistance and methodological support to Member States, the European Union Agency for Fundamental Rights and the European Institute for Gender Equality will continue to support LGBTIQ equality.

Discrimination, violence and hatred against LGBTIQ people go against the fundamental values of the European Union, and must be eliminated. Together, we can break down barriers to LGBTIQ equality and make clear progress by 2025 towards an EU where LGBTIQ people, in all their diversity, are safe and have equal opportunities to participate fully in society and thus reach their full potential.