



DANISH INSTITUTE FOR
HUMAN RIGHTS

COWI

The social situation concerning homophobia and discrimination on grounds of sexual orientation in France

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A. A Summary of the Overall Situation of LGBT Persons

- [1]. In the last ten years the context and situation regarding LGBT issues has changed a great deal in France, and surveys show a growing acceptance of homosexuality. This is due to several factors, including claims for equal rights made by LGBT groups that led to a law on PACS (gender-neutral registered partnership) in 1999. Media coverage of those debates generated stronger visibility for homosexual couples. The PACS, however, does not grant access to a number of full marriage benefits, including adoption and assisted insemination.
- [2]. French law sanctions discrimination on grounds of sexual orientation. *HALDE* [High Authority for the Elimination of Discrimination] was established in 2004 and out of the approximately 4,000 complaints received in 2007, about 113 regarded discrimination on grounds of sexual orientation.
- [3]. Reports show that experiences of hate crime and discrimination are prevalent in everyday social interaction, that LGBT issues are absent in school curricula and that the rate of attempted suicide among youth related to questions of sexual orientation and gender identity is high.

B. The Collection of Data

- [4]. The material for this report has been collected from four sources:
 - A legal country report carried out for this study, written by Professor Florence Benoit-Rohmer, Robert Schumann University—Strasbourg.¹
 - A sociological country report carried out for this study reviewing available data on the situation concerning homophobia and discrimination on grounds of sexual orientation, written by Natacha Chetcuti.²
 - Data collected through interviews held in France with the LGBT NGOs *Inter- LGBT* and *L'Autre Cercle*, and the National Equality Body *HALDE*.

¹ F. Benoit-Rohmer (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in France*. FRALEX.

² N. Chetcuti (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in France*. Sociological Country Report.

- Data collected through an online questionnaire sent to stakeholders in France.

- [5]. It is difficult to obtain data concerning LGBT discrimination in France for at least two reasons. The first is the Fillon government's elimination of the *State Secretariat in Charge of Questions of Integration and Equal Opportunity*, which operated from March 31, 2004, to Oct. 28, 2004. The secretariat centralised data concerning equality of the sexes but was also in charge of questions concerning equality in general. To obtain such data today, one must deal with several different ministries. The second reason is that sexual orientation data collection has been prohibited since 1992 and is subject to penal sanction. There are thus no official statistics on the LGBT community in France.³
- [6]. The data in this report is based on work carried out at the institutional level (university research or studies conducted within the public administration) as well as at the associative level.

C. Key Findings

C.1. Attitudes Toward LGBT persons

- [7]. Surveys examining acceptance and attitudes toward homosexuality were carried out on a European level in 2008 and 2006.
- [8]. The 2008 *Eurobarometer* asked, 'How would you personally feel about having a homosexual (gay man or lesbian woman) as a neighbour?' (1 meaning 'very uncomfortable' and 10 meaning 'very comfortable'). The figure in France was 8.9, compared with the EU average of 7.9 (Sweden was highest with 9.5 and Romania the lowest with 4.8).⁴
- [9]. In the 2006 *Eurobarometer*, attitudes toward same-sex marriage were examined in every Member State. Forty-two per cent of EU citizens agreed that such marriages should be allowed throughout Europe; the figure was 48 per cent in France (Netherlands scored the highest with 82 per cent and Romania the lowest with 11 per cent). With regard to adoption, the level of acceptance decreases in the EU and in France. Thirty-one per cent of Europeans felt that homosexual couples should be allowed to adopt children throughout Europe; the figure was 35 per

³ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in France*, Sociological Country Report.

⁴ European Commission (2008) *Special Eurobarometer 296. Discrimination in the European Union: Perceptions, Experiences and Attitudes*, chapter 9.

cent in France (Netherlands scored highest with 69 per cent and Poland and Malta the lowest with 7 per cent).⁵

C.2. Criminal Law - Hate Crime

- [10]. Several criminal laws explicitly prohibit discrimination based on sexual orientation. French legislation considers discrimination based on sexual orientation to be an aggravating circumstance. Since 2004, French law has prohibited homophobic libel and slurs. Since 2004, the law has specifically prohibited 'threats based on real or supposed sexual orientation'.⁶
- [11]. It is prohibited to collect data on specific groups of persons, meaning that police may not keep statistics on LGBT hate crime complaints. The only way to find out the number of incidents would be to go through court cases where 'hate crime' has been an aggravating circumstance. Many cases, however, do not make it to court.⁷
- [12]. No quantitative scientific research on hate crime has been performed in France. However, an annual report from the NGO *SOS Homophobie* made on the background of reports to a helpline shed light on the matter: Homophobia finds expression in physical violence (beatings and rape), symbolic violence (insults, denigration and invisibility) or in psychological violence (moral harassment, extortion). The report notes an aggravation of physical violence in the public sphere since 2005. Twelve per cent of phone calls or mail received by *SOS Homophobie* in 2006 concerned cases of physical aggression.⁸

C.3. Freedom of Assembly

- [13]. In France, LGBT persons are not discriminated against on the basis of their sexual orientation when creating an association whose purpose is to defend their rights. French legislation does not limit the freedom of association or assembly of LGBT persons.⁹

⁵ Eurobarometer 66 (2006), available at:

http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_en.pdf, pp. 43-46.

⁶ F. Benoît-Rohmer (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in France*, FRALEX.

⁷ Field trip meeting with *Inter- LGBT* and *L'Autre Cercle* (10 March 2008).

⁸ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in France*. Sociological Country Report.

⁹ F. Benoît-Rohmer (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation*, FRALEX.

C.4. Family and Other Social Issues

- [14]. A registered partnership known as the ‘Pacte Civil de Solidarité’ or ‘PACS’ was enacted on Nov. 15, 1999. PACS is gender-neutral and thus also accessible to same-sex couples.¹⁰ Joint taxation (after three years of mutual commitment) and social benefits are accessible to registered partners.
- [15]. Assisted insemination is not allowed for single women or lesbians in a relationship. Same-sex couples do not have access to adoption or common parental authority and a number of discrimination cases related to family status, adoption or obtaining parental leave have been identified.¹¹
- [16]. Regarding freedom of movement for same-sex partners, the PACS may allow French nationals bound by a PACS to a citizen of a non-Member State to be taken into account as registered partners in the Member States whose national legislation recognises same-sex partnerships. (Article 2.2 of Directive 2004/38).¹²
- [17]. In the case of a Member State whose legislation does not recognise same-sex partnerships, the French/non-Member State partners may nevertheless benefit from the obligation to facilitate residence, an obligation which remains the responsibility of the host Member State.¹³
- [18]. Aside from difficulty related to determining who has the right to freedom of movement by virtue of their family ties, potential barriers still exist as to the guarantee of equal treatment of partners joined by a PACS and other couples.¹⁴
- [19]. Surveys show that the family environment is the primary area of homosexual discrimination: 16 per cent of LGB survey respondents have been subject to family-related violence.¹⁵

C.5. The Labour Market

- [20]. France has transposed Directive 2000/78/EC into labour law, and discrimination based on sexual orientation is punishable. The burden

¹⁰ F. Benoîr-Rohmer (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in France*, FRALEX..

¹¹ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in France*. Sociological Country Report.

¹² F. Benoîr-Rohmer (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in France*. FRALEX.

¹³ F. Benoîr-Rohmer (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in France*. FRALEX.

¹⁴ F. Benoîr-Rohmer (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in France*. FRALEX.

¹⁵ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in France*. Sociological Country Report.

of proof upon the victim has been reduced. The transposition however, is partially conforming. France has been subject to infringement proceedings for having failed to completely transpose Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. A government bill composed of various provisions adapting national law to Community law in the field of combating discrimination (Bill No. 514 filed at the National Assembly on 19 December 2007) is currently being examined by the French Parliament.¹⁶

- [21]. In the context of eliminating discrimination, Law n°2004-1486 of Dec. 30, 2004, created the *HALDE* [High Authority for Equality and the Elimination of Discrimination]. Essentially, this law provides for the transposition of Directive n°2000/43 of 29 June 2000. *HALDE* covers all 18 grounds for discrimination (including sexual orientation) mentioned in the French penal and labour code, as well as the statute for civil servants.
- [22]. Survey data show that LGBT discrimination is manifested in the working environment through harassment such as insults, effeminate gestures mimicking gays, sexist insults for lesbians or obscene gestures.¹⁷ Surveys indicate that initiating legal procedures in cases of workplace homophobia is difficult to carry through. The national opinion poll conducted by *L'Autre Cercle* shows that 42 per cent of homosexuals are not out at work. Sixteen per cent of homophobia cases in the annual report of *SOS Homophobie* (2007) are related to the workplace.¹⁸

C.6. Asylum and Subsidiary Protection

- [23]. LGBT persons may, in theory, be granted asylum based on persecution related to their sexual orientation. These criteria also apply to transsexuals. NGOs point out, however, that bi-national same-sex registered partners have encountered difficulty in obtaining asylum in France. NGOs believe that conventional protection is becoming more and more difficult to obtain in France.¹⁹
- [24]. The right to asylum is very restricted, and foreigners are confronted with great difficulties in obtaining a visa when they are threatened in their country of origin. This situation has worsened since a bill regarding the regularization of the situation of illegal aliens was passed in the summer of 2006. The prefectures continue to ignore the 2004 guideline allowing LGBT persons to be granted political

¹⁶ F. Benoît-Rohmer (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in France*. FRALEX.

¹⁷ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in France*, Sociological Country Report.

¹⁸ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in France*, Sociological Country Report.

¹⁹ F. Benoît-Rohmer (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in France*. FRALEX.

asylum, though the courts often support aliens when legal action is taken in such cases. Numerous cases of expulsion of threatened LGBT persons (for example by Islamic fundamentalists) have been noted.²⁰

- [25]. France has made a list of ‘safe’ countries, among which are five that criminalise same-sex relations or homosexuality. It is extremely difficult for LGB persons from those countries to obtain legal protection in France.²¹

C.7. Family Reunification

- [26]. Family reunification only covers spouses and minors (article L. 411-1 of the CESEDA, the Immigration and Asylum Code) and is therefore not available to a partner even when a PACS has been registered. Because French law does not authorise same-sex marriage, family reunification does not apply to same-sex couples. However, a residence visa may be granted to partners in a same-sex registered couple because concluding a PACS constitutes an element of appreciation of personal ties to France, enabling one to obtain a residence visa. The prefecture nevertheless has discretionary power in the matter.²²

C.8. Education

- [27]. A sex instruction circular from the *Ministry of National Education* in 2003 mentioned ‘the fight against prejudice based on sexism and homophobia’. A circular from November 2006 mentioned ‘the necessity to fight homophobia’. However, LGBT organisations argue that there is a lack of attention toward LGBT issues in the curriculum and educational materials.²³ A recent study done by *HALDE* showed that LGBT persons (as well as other minorities) are absent in textbooks.²⁴ According to a 2007 *SOS Homophobie* report, the number of homophobic assaults has increased in schools. This represented 5 per cent of the reported cases of assault in schools in France. Assaults on students are categorized as follows: 42 per cent suffer insults, 29 per cent discrimination, and 13 per cent physical aggression. Only one-third of all adults experiencing discriminatory treatment on grounds of sexual orientation in school submit a complaint to the justice system, and the percentage of young persons submitting complaints is even lower.²⁵

²⁰ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in France*. Sociological Country Report

²¹ Field trip meeting with *Inter- LGBT* and *L'Autre Cercle* (France, 10 March 2008)..

²² F. Benoît-Rohmer (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in France*. FRALEX.

²³ Field trip meeting with *Inter- LGBT* and *L'Autre Cercle* (France, 10 March 2008).

²⁴ Field trip meeting with *HALDE* (France, 10 March 2008).

²⁵ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in France*. Sociological Country Report.

C.9. Health Service

- [28]. The suicide rate of LGBT persons is a major area of concern. Surveys show that 25 per cent of all suicide attempts of 16- to 25-year-old men and 10 per cent of women in the same age range are linked to homophobia, sexual orientation or gender identity.²⁶
- [29]. Another phenomenon has been identified in several reports (by *ILGA*, *CLGBT*, *SOS Homophobie* and *CLF*, among others): Disrespect for lesbian and bisexual women's health issues by service providers. Reports show that a significant percentage of lesbians and bisexual women do not inform their therapists or gynaecologists about their sexual orientation or sexual practices. This invisibility has an impact on the prevention of illnesses and medical follow-up, especially with regard to breast and uterine cancer.²⁷

C.10. Religion

- [30]. Religious institutions generally remain hostile, and oppose the rights of LGBT persons and the fight against discrimination on grounds of sexual orientation. On Feb. 8, 2007, for the first time in France, leaders of several religious organisations (Muslim, Catholic, Protestant, Orthodox, Jewish and Armenian) issued a common declaration under the headline 'Marriage is the union between a man and a woman' in which they declared themselves against marriage and adoption for homosexual couples.²⁸

C.11. Sports

- [31]. The visibility of LGBT issues in sports is very recent, dating back to the late 1990s. A survey published by *LICRA* [International League against Racism and Anti-Semitism] on problems in sport indicated that football was the most prone to all kinds of discrimination, including sexism and homophobia.²⁹
- [32]. Although the subject remains taboo, there is a higher level of recognition of homophobic violence in football than other sports. The football club Paris St Germain has involved itself with *LICRA* and *Paris Foot Gay* in a policy on prevention and the fight against discrimination with a focus on homophobia.³⁰

²⁶ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in France*. Sociological Country Report.

²⁷ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in France*. Sociological Country Report.

²⁸ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in France*. Sociological Country Report.

²⁹ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in France*. Sociological Country Report.

³⁰ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in France*. Sociological Country Report.

- [33]. In December 2006, the first international symposium on gay and lesbian issues in sport was held in France. The symposium brought together researchers, activists and persons responsible for associative sports.³¹

C.12. Media

- [34]. In recent years, the issue of sexual minorities and equal rights has gained more coverage in various national newspapers and magazines. Simultaneously, the image of homosexuality has been significantly normalised, and lesbians and gays in entertainment are in a larger extent now depicted 'just like everybody else'. LGBT organisations regard this as a positive development in the debate about legally sanctioned same-sex partnerships.³² At the same time, the dominance of such representations risks eradicating LGBT history, culture, multiple identities and the discrimination experienced in a context of heteronormativity. Also, gay men and lesbians are still subject to sexist and homophobic caricatures in media as soon as the topic moves beyond the equal-rights debate.³³

C.13. Transgender Issues

- [35]. There has been a lack of information about transgendered persons in the fields studied in the report. No statistics can be found. Transsexuals have the right to change their civil status, first name and the sex stated on their birth certificate, but this right does not appear in law, only in jurisprudence.³⁴
- [36]. LGBT NGOs describe the procedures in the healthcare system regarding sex reassignment as very long and complicated.³⁵
- [37]. An analysis of case law shows that any discrimination based upon a person's transsexuality is equivalent to discrimination on the basis of sex. There are known cases of transgender discrimination on the labour market.³⁶

C.14. Multiple Discrimination

- [38]. There is no data available on multiple discrimination.

³¹ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in France*. Sociological Country Report.

³² Field trip meeting with *Inter- LGBT* and *L'Autre Cercle* (France, 10 March 2008),.

³³ N. Chetcuti (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in France*. Sociological Country Report.

³⁴ F. Benoît-Rohmer (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in France*. FRALEX.

³⁵ Field trip meeting with *Inter- LGBT* and *L'Autre Cercle*, March 10.2008.

³⁶ F. Benoît-Rohmer (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in France*. FRALEX.

D. Good Practice

[39]. Good practices are described in Annex 1.