



# High Level Ministerial Conference on LGBTIQ Equality Mainstreaming

**22-23 February 2017**  
**The Westin Dragonara Resort, St. Julian's**

## A. Background

The conference intends to provide a platform for ministers, European Union officials, national government representatives, policy makers and civil society advocates to take stock of the current situation, share experiences and best practices and learn from one another for better LGBTIQ equality mainstreaming in all policy spheres.

## B. Aim

Specifically, this conference will witness the first reporting back on the European Commission's implementation of the *List of Actions to advance LGBTI equality*. The actions listed cover in a comprehensive way all policy areas that are relevant for LGBTI people: non-discrimination, education, employment, health, free movement, asylum, hate speech/crime, enlargement and foreign policy.

Additionally, the conference is intended to provide a forum for discussion on progress that can be achieved at national level through policy making and legislative initiatives. National ministers responsible for the fields of education, healthcare and public safety will thus participate to discuss challenges and solutions in their respective fields. This links this conference to the IDAHO Forum process that was started in 2013, and continues to bring together Ministers and state representatives to share experiences and best practices.

The format of the conference will be such to foster dialogue and generate discussion.

## C. Programme

### 22nd February 2017

- 15.00 – 18.00 Registration of participants at **The Westin Dragonara Resort**, St. Julian's
- 18.30 sharp Transfers from The Westin Dragonara Resort to the Mediterranean Conference Centre
- 19.30 – 22.30 Official Dinner at the **Mediterranean Conference Centre**, Valletta
- Transfers back to The Westin Dragonara Resort will be provided by the Maltese Presidency

### 23rd February 2017

- 08.00 – 09.00 Registration of participants
- Welcome coffee
- Conference moderated by **Brian Sheehan** and **Claire Cassar**
- 09.00 – 10.00 Short conference orientation video prepared by the **European Union Fundamental Rights Agency**
- Welcome speech by **Helena Dalli**, Maltese Minister for Social Dialogue, Consumer Affairs and Civil Liberties
- Reporting on the *List of Actions to advance LGBTI equality* by **Tiina Astola**, Director-General, European Commission DG Justice and Consumers
- Advancing LGBTI equality: Taking stock and looking ahead* by **Michael O'Flaherty**, Director of the European Union Fundamental Rights Agency
- Address by **Ulrike Lunacek**, Vice-President of the European Parliament; Co-President of the European Parliament's Intergroup on LGBTI Rights
- 10.00 – 10.45 Panel discussion on current European level actions towards LGBTIQ equality mainstreaming:
- Tiina Astola**, Director-General, European Commission DG Justice and Consumers
- Michael O'Flaherty**, Director of the European Union Agency for Fundamental Rights

**Ulrike Lunacek**, Vice-President of the European Parliament; Co-President of the European Parliament's Intergroup on LGBTI Rights

**Katrin Hugendubel**, Advocacy Director of ILGA-Europe

**Julia Ehrt**, Executive Director of Transgender Europe

**Gabi Calleja**, Chair of Maltese LGBTIQ Consultative Council, Coordinator of the Malta LGBTIQ Rights Movement

10.45 – 11.15      Coffee Break

11.15 – 12.30      Panel 1: LGBTIQ equality mainstreaming in education

**Evarist Bartolo**, Maltese Minister for Education and Employment

**Felix König**, Political Advisor to the Swedish Minister for Culture and Democracy

**Rubén Ávila**, Education Officer of IGLYO

**Ato Chaber**, Executive Director of Campaign Against Homophobia, Poland

12.30 – 14.00      Buffet Lunch

14.00 – 15.15      Panel 2: LGBTIQ equality mainstreaming in healthcare

**Dolores Montserrat**, Spanish Minister for Health, Social Policy and Equality (*tbc*)

**Eduardo Cabrita**, Portuguese Deputy Minister in the Cabinet of the Prime Minister

**Piet De Bruyn**, Rapporteur on Intersex Persons, Parliamentary Assembly of the Council of Europe

**Dan Christian Ghattas**, Co-Chair of Organisation Intersex International – Europe

15.15 – 15.45	Coffee Break
15.45 – 17.00	<p>Panel 3: LGBTIQ equality mainstreaming in public safety</p> <p><b>Eleni Tsetsekou</b>, Head of the Sexual Orientation and Gender Identity Unit, Council of Europe</p> <p><b>Dennis van der Veur</b>, Head of Sector Consultation &amp; Cooperation, European Union Agency for Fundamental Rights</p> <p><b>Linda Maria Ravo</b>, Legal and Policy Officer, European Commission DG Justice and Consumers</p> <p><b>Marta Ramos</b>, Executive Director of ILGA Portugal</p> <p><b>Krisztina Kolos Orbán</b>, Transvanilla Transgender Association, Hungary</p>
17:00 – 17:10	Presentation of the <i>5<sup>th</sup> IDAHOT Forum</i> and its aims by <b>Elke Sleurs</b> , Belgian Minister for Equal Opportunities
17:10 – 17.30	<p>Conclusions</p> <p><b>Michael O'Flaherty</b>, Director of the European Union Fundamental Rights Agency</p> <p><b>Daniele Viotti</b>, Co-President of the European Parliament's Intergroup on LGBTI Rights</p> <p><b>Szablocs Schmidt</b>, Head of Unit Non-Discrimination and Roma Co-ordination, European Commission DG Justice and Consumers</p> <p><b>Helena Dalli</b>, Maltese Minister for Social Dialogue, Consumer Affairs and Civil Liberties</p>
19.00 – 21.00	Buffet Dinner at <b>The Westin Dragonara Resort</b> , St. Julian's



## D. Orientation Papers<sup>1</sup>

### Panel 1: LGBTIQ equality mainstreaming in education

*"I still remember being absolutely horrified by the possibility of people in my elementary and secondary school thinking I was 'a fag'. I still experience consequences of those years of nervous tension caused by constant self-control and self-censorship."* (Poland, gay, 29)

Lesbian, gay, bisexual, transgender and intersex (LGBTI) children and students may face problems during their time at school. Their safety is often not guaranteed as they are subject to bullying or outright violence which may take various forms including cyber bullying and physical attacks.

#### i. Relevant legal and policy framework

All EU member states are signatories of the *United Nations Convention on the Rights of the Child* which protects children from mistreatment in all areas of life, including education. *Council of Europe Committee of Ministers Recommendation 2010(5)* states that:

"member states should take appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; this includes, in particular, safeguarding the right of children and youth to education in a safe environment, free from violence, bullying, social exclusion or other forms of discriminatory and degrading treatment related to sexual orientation or gender identity."

It also emphasises that schools need to provide objective information with respect to sexual orientation and gender identity, for instance in school curricula and educational materials.

According to the *List of actions to advance LGBTI equality* by the European Commission, education is identified as a key focus area. Key actions to be taken include supporting Member States through the organisation of a best practice exchange on LGBTI anti-discrimination actions in education and homo- and transphobic school bullying. The focus is put on safe school environments and diversity lessons in the context of tolerance and diversity policy development.

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<sup>1</sup> All three orientation papers were developed by the European Union Agency on Fundamental Rights

## ii. **Overview of FRA evidence: the situation on the ground**

According to FRA data more than 8 in 10 of all respondents in each EU Member State had witnessed negative comments or conduct during their time at school because a schoolmate was perceived to be LGBT. As a result, 2 out of 3 LGBT respondents were hiding or disguising being LGBT at school. At least 60% personally experienced negative comments or conduct at school because they were LGBT. Discrimination is even more persistent in case of transgender students who face also other obstacles, besides bullying. They are often required to wear a school uniform, inconsistent with the gender they identify with, not allowed to use their preferred restroom or excluded from participating in sports. These rules, enforced by school authorities, impede the creation of safe and inclusive environment for all students.

Bullying and discrimination that students face at schools usually leads to hiding or disguising themselves. It effects in so-called invisibility of LGBTI issues in the field of education which results in the lack of an incentive to take an action against bullying, as the problem is not officially acknowledged. It may enforce the discrimination of LGBTI pupils which creates a vicious circle impeding the fight with LGBTI discrimination in the field of education.

Teachers and other educational professionals interviewed by FRA stressed that many Member States lack policies and implementation mechanisms which tackle the discrimination LGBTI students face. Where anti-bullying measures are in place, these are often generic and can be ineffective in dealing with bullying on the specific grounds of sexual orientation or gender identity. Moreover, in most EU Member States, respondents argue that objective information about sexual orientation and gender identity, and about the fundamental rights of LGBTI persons, is not included in school curricula. The lack of capacity and specific training is closely related to the low levels of awareness among professionals and thus their lack of capacity to effectively confront discrimination on the grounds of sexual orientation and gender identity at school.

## iii. **What could be done?**

Promising practices identified by FRA to tackle the situation include diversity and anti-bullying policies at schools, as well as frontline work by NGOs. One of the recognised good practices are 'gay-straight alliances' which serve as support groups which are intended to provide a safe, supportive environment for LGBTI students. They are established in a common effort of school authorities and pupils, which creates the atmosphere of mutual respect and understanding. Moreover, school authorities can act by adopting inclusive rules guiding the life at school, for example, introducing gender-neutral dress code and restrooms, using gender-inclusive language, etc. A strong anti-discrimination stands demonstrated by the school authorities and specific anti-bullying policies can also significantly contribute to more LGBTI inclusive environment at school. And, last but not least, associations of teachers could do more

awareness raising among their members. A recent publication by UNESCO provides a good overview of available resources.

## Panel 2: LGBTIQ equality mainstreaming in healthcare

*"Homophobic comments by doctors during minor procedures, jokes, comments. Most of my lesbian friends who are in their 30s and 40s do not go to preventive mammogram screenings at all, regardless of all the campaigns in the media, not to have to reveal their orientation."* (Czech Republic, lesbian, 30)

Equal access to healthcare and health services remains a challenge for many LGBTI persons in a large number of EUMS, affecting transgender and intersex people in particular. The issue concerns not only the lack of access to healthcare based on specific needs but also stigmatisation and discrimination of LGBTI people by medical professionals.

### i. Relevant legal and policy frameworks

The *UN Convention on Economic, Social and Cultural Rights* spells out that:

"Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity".

International human rights law has progressively clarified that access to healthcare should be guaranteed without discrimination including on the grounds of sexual orientation or gender identity. However, only less than half of EUMS adopted legislation against discrimination on the grounds of sexual orientation in the provision of goods and services which includes the provision of (public) healthcare.

Transgender persons face barriers since they are faced by legal requirements that may affect their health, notably when they try to get identity documents matching their gender identity. In some EUMS they are required to undergo sterilisation before being recognised under their real gender.

The legal frameworks in EUMS regulating medical interventions on children born with an intersex variation vary greatly. Intersex people face particular serious problems. In at least 21 Member States, sex 'normalisation' surgery is carried out on intersex children so that their sex characteristics conform to being either male or female. In eight Member States, a legal representative can consent to 'sex-normalisation' medical interventions independently of the child's ability to decide, while eighteen Member States require patient consent, provided the child is capable of deciding.

The European Commission as part its *List of actions to advance LGBTI equality*, has included this policy area in its programme. It is funding a pilot study on health inequalities faced by



LGBTI people, especially those in vulnerable situations (isolated communities, elderly and young people, prison settings, people from lower socioeconomic groups, etc.) and the barriers faced by health professionals when providing care. With regards to discussions in the World Health Organisation (WHO), the Commission is also supporting the depathologisation of trans identities.

## ii. **Overview of FRA evidence: the situation on the ground**

One in 10 LGBT respondents who accessed healthcare services felt personally discriminated against by healthcare personnel because of being LGBT. The problems experienced the most often included inappropriate curiosity (16% in case of lesbian women) or having specific needs ignored (12%). These figures of discrimination tend to rise in case of transgender persons out of whom 19% felt discriminated against. Moreover, specialist services for transgender persons are spread unevenly across EU Member States and are completely unavailable in some. In some countries, including Bulgaria, Hungary, Italy, Latvia, Poland, Romania and Slovakia, FRA found that many health professionals still see homosexuality as a pathological issue.

Other studies point to increased suicide risk among LGBTI people due to depression caused by harassment, bullying and non-acceptance in the family or by peer, especially youth.

In FRA's survey 1 in 4 trans respondents said that they have to prove permanent infertility in order to change their official documents to match preferred gender. 2 in 3 respondents said they have to undergo mandatory psychotherapy / psychiatric treatment in order to change official documents.

## iii. **What should be done?**

There is an urgent need to improve the legal protections LGBTI persons are in need of. Moreover, there is a need to increase awareness about discrimination and harassment in the health sector. Introducing gender-neutral policies and to create LGBTI-friendly environment in healthcare institutions are among key priorities. Proper training on LGBTI persons' needs provided to relevant professionals may have a significant impact on combating LGBTI discrimination. Countries that lack expertise on trans specific healthcare should be able to learn from other countries that have such expertise.

A section on LGBTI healthcare clients should become part of EU member states' national health plans in order to ensure that health surveys, training curricula and health policies also take into account LGBT persons and their needs.



### Panel 3: 'LGBTIQ equality mainstreaming in public safety'

*"I have nearly always been attacked because I am perceived as being a gay man, and because I was seen as transgender only on one occasion. I 'pass' quite easily, but am seen as being a gay man in most people's eyes. I have often witnessed transphobic violence and attacks, but not so much against me. However, homophobic attacks have been perpetrated against me and others on a regular basis."* (United Kingdom, transgender, 36)

Everyone is entitled to the right to life, security and protection from violence, and these must be respected, irrespective of someone's sexual orientation, gender identity or any other ground. However, data collected by the EU Agency for Fundamental Rights reveal that lesbian, gay, bisexual and transgender (LGBT) persons are subject to high levels of repeated victimisation and hate motivated violence, which is particularly high for transgender people.

#### i. Relevant EU legal and policy framework

Hate crimes violate the right to human dignity (Article 1 of the *EU Charter of fundamental rights*), the right to life (Article 2 of the EU Charter) and the integrity of the person and protection from violence (Article 3 of the EU Charter).

The 2012 *Directive establishing minimum standards on the rights, support and protection of victims of crime* (the Victims' Rights Directive) explicitly prohibits discrimination based on sexual orientation, gender identity and gender expression. The Directive obliges all EUMS to ensure access for victim specialist support, in accordance with their needs. The Directive also spells out that MS should provide shelters and targeted and integrated support for victims with specific needs, such as victims of homophobic or transphobic hate crimes.

On the other hand, no EU legislation currently exists which obliges Member States to penalise hate speech and crime committed with a motive of bias relating to the victims' perceived sexual orientation or gender identity. The *Framework Decision on Racism and Xenophobia* only relates to crimes committed with a racist or xenophobic motivation but it does not relate to other protected characteristics, like sexual orientation or gender identity. Nonetheless, as of the mid 2015, 20 EUMS had made speech inciting to hatred on the ground of sexual orientation a criminal offence. The same measures were adopted in 15 Member States in relation to hate crime.

The European Commission in its *List of actions to advance LGBTI equality* has listed among its aims to continue assisting its Member States in the correct implementation of the Victims of Crime Directive. It also committed to foster dedicated thematic discussions on the effective prosecution of homophobic and transphobic hate speech and crime and the protection of hate crime victims within the new EU High level group on racism, xenophobia and other forms of intolerance, and to step up action to support Member States in their efforts on combating online

hate speech, including, where covered by national legislation, homophobic and transphobic hate speech.

## ii. **Overview of FRA evidence: situation on the ground**

According to data from the largest ever survey among 93,000 LGBT persons, 26% of LGBT people had been attacked or threatened with violence in the last five years. 66% of respondents across all EU Member States were scared of holding hands in public with a same-sex partner. For gay and bisexual men respondents it was about 75%. The statistics show that transgender people are the group the most endangered by violent behaviour. 34% of all transgender respondents say they were physically or sexually attacked or threatened with violence in the five years preceding the survey, compared with, for example, around a quarter of all lesbian, gay and bisexual respondents.

Whereas the majority of EU Member States provide legal protection against hate crimes motivated by a person's perceived sexual orientation or gender identity, only 22% of the most serious incidents of violence experienced by respondents in the preceding 12 months because they were LGBTI were brought to the attention of the police. Only 6% of equivalent incidents of harassment were brought to the police's attention. It demonstrates a serious problem of crimes remaining unreported. The most frequent reasons for not reporting incidents of discrimination were a belief that 'nothing would change', as well as a lack of knowledge about how or where to report an incident or fear of homophobic or transphobic reaction from the police.

FRA also interviewed law enforcement professionals in 19 EU Member States on the issue of hate crime against LGBT persons. Many of them stressed that there are few or no data on LGBT hate crime rates whereas most law enforcement professionals interviewed recognise that they are frequently victims of hate crimes including in rural areas.

## iii. **What should be done?**

EU Member State efforts should build trust between LGBTI people and law enforcement, for example, by providing training and developing guidelines, handbooks for the police, prosecutors and judges on how to assist and support individuals who become victims of hate crime because of perceptions of their sexual orientation and/or gender identity. Such activities are already conducted by some member states (for example Austria, Croatia, Denmark, Ireland, the Netherlands and the United Kingdom) and numerous law enforcement professionals FRA interviewed admitted their impactful character.

Moreover, member states should effectively implement the *Victims' Rights Directive* and notably ensure, among others, access to justice as well as compensation and restoration for these victims, thereby contributing to combating all forms of violence against LGBTI people.



## Recent FRA publications relevant to LGBTIQ equality mainstreaming:

FRA (2016), *Fundamental Rights Report 2016*, Luxembourg, Publications Office.

FRA (2016), *Fundamental Rights Report 2016 - FRA opinions*, accessible at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2016-fundamental-rights-report-2016-opinions\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-fundamental-rights-report-2016-opinions_en.pdf)

FRA (2016), *Professionally speaking: challenges to achieving equality for LGBT people*, Luxembourg, Publications Office.

FRA (2015), *Protection against discrimination on grounds of sexual orientation, gender identity and sex characteristics in the EU – Comparative legal analysis – Update 2015*, Luxembourg, Publications Office.

FRA (2015), *Being Trans in the EU – Comparative analysis of the EU LGBT survey data – Summary*, available at: [http://fra.europa.eu/sites/default/files/fra-2015-being-trans-eu-comparative-summary\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2015-being-trans-eu-comparative-summary_en.pdf)

FRA (2015), *The fundamental rights situation of intersex people*, May 2015, available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2015-focus-04-intersex\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2015-focus-04-intersex_en.pdf)

FRA (2014), *Being Trans in the EU - Comparative analysis of the EU LGBT survey data*, Luxembourg, Publications Office.

FRA (2014), *EU LGBT survey - European Union lesbian, gay, bisexual and transgender survey - Main results*, Luxembourg, Publications Office.