



# **TACKLING SEXUAL ORIENTATION AND GENDER IDENTITY DISCRIMINATION**

## *Next steps in EU and Member State policy making*

**28 October 2014**

**Brussels, General Secretariat of the Council of the European Union  
(Justus Lipsius)**

*The European Union is founded on the values of equality and non-discrimination. Through its policies it continues to work on combatting all forms of discrimination, including discrimination based on sexual orientation or gender identity. Although much has been achieved over the past decade, fear, isolation and discrimination of lesbian, gay, bisexual, transgender, and intersex (LGBTI) people continues to be an important fundamental rights concern across the EU.*

*The Italian Presidency of the Council of the EU, together with the EU Agency for Fundamental Rights (FRA) and the General Secretariat of the Council, will host the high-level conference "Tackling sexual orientation and gender identity discrimination: next steps in EU and Member State policy making".*

## **OBJECTIVES**

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- To support the further development of effective and targeted policy responses by the EU and its Member States to address the fundamental rights challenges faced by LGBTI people;
- To raise awareness of the situation of LGBTI people across the EU, both in terms of rights ensured by law, as well as their experiences of discrimination and hate crime;
- To exchange promising practices in legislation, policy and specific policy measures, including on the role of public authorities and professionals working in the employment, law enforcement and education sectors in combatting discrimination on grounds of sexual orientation and gender identity;
- To discuss how equality policies in different areas of the Union's competence can be further strengthened and mainstreamed.

## **PARTICIPANTS**

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The conference will bring together about 250 decision makers and practitioners from across the EU, among them representatives from EU institutions and agencies, national governments and parliaments, equality bodies, national human rights institutions and other bodies with a human rights remit, European umbrella NGOs as well as national civil society organisations and professionals working in the area of education, employment and law enforcement.



## BACKGROUND

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### Taking stock

Over the last decade, there have been some positive trends in recognising sexual orientation and gender identity as grounds for discrimination in EU and national legislation. The EU has played an important, and often leading, role in improving the situation. The principle of equal treatment constitutes a fundamental value of the Union that ensures both respect for human dignity and full participation in economic, cultural and social life. Indeed, Article 21 of the Charter of Fundamental Rights prohibits “any discrimination based on any ground such as sex, [...] or sexual orientation”.

The EU-wide protection of LGBT people against discrimination is well established in the area of employment and occupation. Discrimination on the grounds of sexual orientation is prohibited by the Employment Equality Directive. The principle of equal treatment also protects transgender people against discrimination, as enshrined in the Gender Equality Directive (recast), in the Directive on access to and supply of goods and services and - with explicit reference to gender identity and expression - in the Asylum Qualification Directive and the EU Victims’ Rights Package.

Although EU protection for LGBT people against discrimination does not currently extend to areas beyond the employment sector – such as education, access to healthcare, housing or other services available to the public – individuals enjoy substantial protection through a variety of legal instruments at national and international level. In 2008, the Commission proposed a Horizontal Equal Treatment Directive that would comply with the principle of equal treatment between people irrespective of religion or belief, disability, age or sexual orientation, thus banning discrimination on these grounds in all areas of EU competence (i.e. social protection, education and access to and supply of goods and services). In 2014 this Directive had not yet been adopted by either of the co-legislators.

In order to address existing gaps in the legal and policy framework, the European Parliament has repeatedly stressed the need for a comprehensive EU multiannual policy to protect the fundamental rights of LGBTI people, either in the form of a programme, roadmap or action plan. This call has been reiterated by a group of EU Member States, with 13 ministers calling on the Commission to issue a comprehensive EU policy for LGBTI equality. Recognising the need for such a comprehensive framework in the context of the EU’s external action, in June 2013 the Council of the EU adopted *Guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex (LGBTI) persons*.

### Challenges ahead

Although significant progress has been made towards the realisation of equality, many reports over the past decade have also highlighted the discrimination, hate crime and other challenges that LGBT people face in their daily lives. FRA’s EU LGBT survey, was the largest-ever study of hate crime and discrimination experienced by LGBT people in the EU. It showed that many LGBT people live in isolation or even fear. Many others experience discrimination, and even violence, for just being themselves:

- 47% of respondents said that they had felt personally discriminated against or harassed because of their sexual orientation in the year preceding the survey. 19% felt discriminated against at work or when looking for a job, despite legal protection under EU law.
- 26% of respondents had been attacked or threatened with violence over the preceding five years. On average 66% of respondents across all EU Member States were scared of holding hands in public with a same-sex partner.



- Only 22% of the most serious hate crime incidents were brought to the attention of the police. Almost half of the respondents who did not report to the police felt the police would do nothing.
- 2 out of 3 respondents hid their sexual orientation at school. At least 60% personally experienced negative comments or conduct at school because they were LGBT, while over 80% in each EU Member State recall negative comments or bullying of LGBT youth at school.

These and other challenges, including those that intersex persons face, will form the centre of discussions at this conference, focusing particularly on next steps in policy making and implementation, including discussing the role of public authorities, civil society and professionals in addressing:

- hostility, violence, and hate crime towards LGBT people
- discrimination on the grounds of sexual orientation and gender identity
- bullying and homophobic attitudes in schools

## RELATED FRA WORK

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The conference discussions will build on the following FRA work:

### **EU LGBT survey**

FRA launched the results of its EU-wide survey on experiences of discrimination and hate crime of LGBT people in May 2013. More than 93,000 LGBT people from all 28 EU Member States completed the survey, making it the largest and most comprehensive survey of its kind to date. The survey results provide valuable evidence of how LGBT people in the EU experience bias-motivated discrimination, violence and harassment in different areas of life, including employment, education, healthcare, housing and other services.

Main results report of the LGBT survey will be presented at the event.

### **Transgender people's experiences of violence and discrimination**

In autumn 2014, FRA will release a report focusing on the situation of transgender people in the European Union. This report analyses transgender-specific data from FRA's EU LGBT survey and makes policy recommendations to the EU institutions and Member States.

### **The role of public authorities and professionals**

FRA carried out qualitative research in 2013 that examined the views and experiences of public authorities and other duty bearers on LGBT-related issues. This survey gathered information on the practices and policies of public officials, teachers, police and health personnel in 19 EU Member States, seeking to identify whether and how these contribute towards creating equality for LGBT people. Detailed results will be available in 2015.

### **Comparative legal and social analysis**

Since FRA's establishment, the Agency has carried out regular reviews of legal and social developments on homophobia, transphobia and discrimination on the grounds of sexual orientation and gender identity in the EU. The comparative analysis maps research findings in the field with the relevant EU and Council of Europe standards. It is designed to equip those who shape policy with the information they need to develop a coherent and systematic approach to safeguarding the fundamental rights of LGBT people. The next update of the comparative legal report is planned for 2015.

A summary of the key agency's evidence and opinions concerning fundamental rights situation of LGBT people in the EU will be distributed to all conference participants in a separate **FRA Focus paper** in advance of the event.



## DRAFT PROGRAMME

### 8.15 – 8.45 Registration and welcome coffee

Moderators:

- **Cristina Gallach**, Head of Public Relations, General Secretariat of the Council of the EU
- **Friso Roscam Abbing**, Head of Communication and Outreach Department, FRA

### 9.00 – 10.00 WELCOME and KEYNOTES

- **Ambassador Stefano Sannino**, Permanent Representative of Italy to the EU
- **Morten Kjaerum**, Director, FRA
- **Ulrike Lunacek**, Vice-President of the European Parliament (video message)
- **Martine Reicherts**, European Commissioner for Justice, Fundamental rights and Citizenship

### 10.00 – 11.30 PANEL DEBATE

#### “OBSTACLES and CHALLENGES ON THE ROAD TO EQUALITY”

*Panel debate and plenary discussion with experts and practitioners:*

- **Julia Ehart**, Director, Transgender Europe
- **Marco De Giorgi**, Representative of the National Office against Racial Discrimination (UNAR), Italy
- **Practitioner** in the area of education
- **Practitioner** in the area of law enforcement

Discussion with the audience

### 11.30 – 12.00 COFFEE BREAK



2014 Italian Presidency  
of the Council of the  
European Union



## **12.00 – 13.30 HIGH LEVEL PANEL DEBATE**

### **“A POLICY RESPONSE: Strategies to address discrimination, prejudice and hate crime towards LGBT people”**

#### *Introduction:*

- **Evelyne Paradis**, ILGA- Europe

#### *Panellists:*

- **Orsat Miljenić**, Minister of Justice, Croatia
- **Aodhán Ó Ríordáin TD**, Minister of State for New Communities, Culture and Equality, Ireland
- **Caren Marks**, Parliamentary Secretary of State, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Germany

Questions and answers from the audience

## **13.30 – 14.00 Closing address**

- *“The unstoppable voice for equality - a testimony”*  
**Conchita Wurst**, Musician, Performer and spokesperson for equality
- *“Italian Presidency - a call for fundamental rights”*  
**Ivan Scalfarotto**, Undersecretary of State, Ministry of Constitutional Reforms and Government liaison to Parliament, Italian Presidency of the Council of the EU

## **14.00 – 15.00 Lunch buffet**