



DANISH INSTITUTE FOR  
HUMAN RIGHTS

**COWI**

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

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# Contents

A.	A Summary of the Overall Situation of LGBT Persons .....	3
B.	The Collection of Data.....	3
C.	Key Findings.....	4
C.1.	Attitudes Toward LGBT persons .....	4
C.2.	Criminal Law - Hate Crime.....	5
C.3.	Freedom of Assembly .....	6
C.4.	Family and Other Social Issues .....	7
C.5.	The Labour Market.....	8
C.6.	Education.....	9
C.7.	Health Service .....	10
C.8.	Religion	10
C.9.	Sports	11
C.10.	Media	11
C.11.	Asylum and Subsidiary Protection .....	11
C.12.	Family Reunification.....	12
C.13.	Transgender Issues .....	12
C.14.	Multiple Discrimination .....	13
D.	Good Practice.....	14

## A. A Summary of the Overall Situation of LGBT Persons

- [1]. The historical legacy of Italian legislation is characterised by negation rather than repression of homosexuality. Same-sex relations, as well as homophobia, remain invisible to state regulation. The only relevant exception is legislative decree no. 216/2003 implementing Directive 2000/78/CE, where sexual orientation is mentioned as one of the grounds of discrimination.
- [2]. Generally speaking, the Italian legal system lacks documents, statistics and case law concerning discrimination on the ground of sexual orientation. And there is no recognition of same-sex partnerships at national level and no access to adoption for same-sex couples.
- [3]. Several LGBT organisations are mobilising for the legal recognition of same-sex partnerships and against homophobia and discrimination, including speaking out against the influence of the Catholic Church in hampering new legislation on these issues. Studies identify harassment and bullying in schools and hate crime as areas of concern.

## 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 by University of Bicocca-Milan professor Marta Cartabia.<sup>1</sup>
  - A sociological country report carried out for this study by University of Piemonte Orientale researcher and lecturer Chiara Bertone.<sup>2</sup>
  - Data collected through interviews held in Italy with various stakeholders: The LGB NGOs *Arcigay* and *Arcilesbica*, the National Equality Body *Ufficio Nazionale Antidiscriminazioni Razziali (UNAR)* [The National Office against Racial Discrimination] which is an office under the *The Dipartimento per i Diritti e le Pari Opportunità* [Department for Rights and Equal Opportunities] under the Prime Minister's Office.<sup>3</sup>

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<sup>1</sup> M. Cartabia (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Italy*, FRALEX.

<sup>2</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>3</sup> *Dipartimento per i Diritti e le Pari Opportunità* [Department for Rights and Equal Opportunities] has recently set up a specific body, the *Commissione per i diritti e le pari opportunità per lesbiche, gay, bisessuali e transgender* [Commission for LGBT persons' rights and equal opportunities]. However, the Commission had not yet held its initial meeting when the field trip for this study was carried out.

- Data collected through an online questionnaire sent to the stakeholders mentioned above.
- [5]. The sociological researchers stated the following:<sup>4</sup> ‘Sociological research on LGBT persons has developed in the last 15 years. Thanks to general surveys on LGB living conditions, and to more focused studies on specific issues, it is possible to trace a picture of many aspects of gay and lesbian life in Italy. Living conditions of transgender and transsexual persons have been the subjects of more qualitative research.’<sup>5</sup>
- [6]. The first national study on LGB life carried out by Barbagli and Colombo in 1996 is still a major reference point: It surveyed 3,502 persons, including more than 100 in-depth interviews.<sup>6</sup> Local research followed in 2001 in Turin, with a sample composed of 262 men and 252 women, and 36 in-depth interviews.<sup>7</sup> In 2005, the Modi-Di survey was carried out, mostly regarding issues of health and sexuality. The questionnaire, partly distributed through the Web, reached 6,774 persons (4,690 males, 2,084 females).<sup>8</sup> Lesbian life was investigated in a 2001 survey by the lesbian group *Soggettività Lesbica* in Milan, with a sample of 691 women.<sup>9</sup> Additional research focusing on single issues has been carried out and will be referred to.

## C. Key Findings

### C.1. Attitudes Toward LGBT persons

- [7]. Surveys examining acceptance and attitudes toward homosexuality have been 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 Italy was 6.7, with an EU average of 7.9. Romania was the lowest with 4.8.<sup>10</sup>
- [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 31 per cent in Italy (Netherlands scored the highest with 82

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<sup>4</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>5</sup> C. Saraceno (2003) *Diversi da chi? Gay, lesbiche, transessuali in un'area metropolitana*, Roma: Derive Approdi.

<sup>6</sup> M. Barbagli, A. Colombo (2007) *Omosessuali moderni*, Bologna: Il Mulino.

<sup>7</sup> C. Saraceno (2003) *Diversi da chi? Gay, lesbiche, transessuali in un'area metropolitana*, Roma: Derive Approdi.

<sup>8</sup> www.modidi.it

<sup>9</sup> Soggettività lesbica (2005) *Cocktail d'amore. 700 e più modi di essere lesbica*, Roma: DeriveApprodi.

<sup>10</sup> European Commission (2008) *Special Eurobarometer 296. Discrimination in the European Union: Perceptions, Experiences and Attitudes*, chapter 9.

per cent and Romania the lowest with 11 per cent). With regard to adoption, the level of acceptance decreases in the EU and in Italy. Thirty-one per cent of Europeans felt that homosexual couples should be allowed to adopt children throughout Europe; in Italy the figure was 24 per cent (Netherlands scored highest with 69 per cent and Poland and Malta the lowest with 7 per cent).<sup>11</sup>

- [10]. According to *Arcigay* and *Arcilesbica*, social stigma attached to LGBT persons is widespread.<sup>12</sup> The consequence of the social stigma is often social exclusion of LGBT persons or persons perceived as having certain sexual or gender identities. The NGOs regard this as being upheld by an ideological offensive from the Vatican and right-wing parties focusing on traditional family values, targeting LGBT persons and using aggressive and derogatory language in public discourse.
- [11]. However, research shows that there has been some change in attitudes toward homosexuals during the last decades. Two-thirds of the Italian population considered homosexuality an illness as recently as the 1970s.<sup>13</sup> Twenty years later, only 17 per cent of people aged 15-34 shared this idea.<sup>14</sup> The proportion of the population considering homosexuality immoral has also reduced, from 66 per cent in 1981 to 30 per cent in 1999, according to the European Values Study. Accordingly, those feeling uneasy with contact with homosexuals have become a minority—in 1999, 29 per cent did not want to have a homosexual as a neighbour, according to the European Values Study.<sup>15</sup> Changes are especially noticeable in surveys of people aged 15-34: The proportion considering homosexuality acceptable according to their values was 37 per cent in 1983 and 50 per cent in 1996.<sup>16</sup>

## C.2. Criminal Law - Hate Crime

- [12]. There is currently no criminal or civil legal provision in Italy regarding hate speech related to homophobia or discrimination on the ground of sexual orientation. Criminal law only penalises hate speech related to discrimination on the grounds of race, ethnicity, nationality or religion. Moreover, the Italian legal system takes no account—either in its legislation or in its case law—of whether crime is committed with homophobic intent. There are no official data

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<sup>11</sup> Eurobarometer 66 (2006), available at:

[http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_en.pdf), pp. 43-46.

<sup>12</sup> Field trip meeting dd. 05.03.2008 with *Arcigay* and *Arcilesbica*.

<sup>13</sup> G. Fabris, L. Davis (1978) *Il mito del sesso: rapporto sul comportamento sessuale degli italiani*, Milano: Arnoldo Mondadori Editore.

<sup>14</sup> E.A. Buzzi (1998) *Giovani, affettività, sessualità. L'amore tra i giovani in un'indagine Iard*, Bologna: Cassero.

<sup>15</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>16</sup> E.A. Buzzi (1998) *Giovani, affettività, sessualità. L'amore tra i giovani in un'indagine Iard*, Bologna: Cassero.

regarding the number of non-criminal court cases initiated in connection with homophobic statements or incidents.<sup>17</sup>

- [13]. During the period of the XV legislature (April 2006-February 2008), several bills were presented before Parliament to extend these criminal provisions to discrimination on the ground of sexual orientation. However, none of these have been approved because of the government crisis and the subsequent early dissolution of Parliament in February 2008.<sup>18</sup>
- [14]. The available information shows that homophobic violence—in terms of physical or verbal attacks—is part of the experience of many LGBT persons. According to a recent Web survey, half of LGB persons felt less safe because of their sexuality. Gay and bisexual men often experience violence in public places and cruising areas (for example in parks), while lesbians and bisexual women are more likely to experience violence in the home or other private settings. More than a hundred homophobic homicides of gay men have been identified between 1990 and 2001. Hate crime, of threats thereof, is also found within families. Violence targeting persons or LGB sites or organisations has acquired greater visibility in the media.<sup>19</sup>
- [15]. Gay men and lesbians do not seem to trust state institutions in the area of protection from violence: They rarely report having been victims of homophobic violence to the police.<sup>20</sup>
- [16]. In the case of sexual orientation discrimination, as with other grounds of discrimination, the victim must bring the case to court and pay the expenses if the case is lost.<sup>21</sup>

### C.3. Freedom of Assembly

- [17]. In Italy neither gay pride parades nor homophobic demonstrations can be banned by the public authorities if they are peaceful and unarmed. The right to hold both kinds of meetings is fully protected by the constitution.<sup>22</sup> In 2008, the newly appointed Minister of Equal Opportunities refused to back the Pride March in Rome, arguing that homosexuals are no longer discriminated against in Italy and that she disagree with the aim of the Pride organisers, which she defined as

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<sup>17</sup> M. Cartabia (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Italy*, FRALEX.

<sup>18</sup> M. Cartabia (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Italy*, FRALEX.

<sup>19</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>20</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>21</sup> M. Cartabia (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Italy*, FRALEX.

<sup>22</sup> M. Cartabia (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Italy*, FRALEX.

official recognition of homosexual couples at the same level as marriage.<sup>23</sup>

- [18]. There is no statistical overview of the extent of crime against LGBT venues. However, it is the general perception of LGBT organisations that violence against LGBT organisations and community sites seems to be rising.<sup>24</sup> They relate this tendency to homophobia reinforced by the positions of the Catholic Church and to the growing activity of neo-fascist groups.
- [19]. Many sites that are used for public debates, such as theatres or cinemas, are owned by the Catholic Church. There are instances of these sites being blocked for events concerning the rights of LGBT persons. Other cases reported by LGBT organisations concerned local authorities denying use of their spaces for congresses or seminars about the lives and the rights of LGBT persons.<sup>25</sup>
- [20]. Prohibition on LGBT organisations taking part in public discussion on family policies characterised the governmental Conference on the Family, organised by the Ministry of the Family in May 2007. The Minister declared that, unlike other organisations dealing with family issues, some LGBT organisations could not participate because ‘it is a conference on the family, the one defined by article 29 [of the Constitution], based on marriage’. The only LGBT organisation that had access to the Conference was *Agedo*, the association for families and friends of gay and lesbian persons.<sup>26</sup>

#### C.4. Family and Other Social Issues

- [21]. The Italian legal system does not recognise same-sex marriage or any other form of heterosexual or LGBT partnership. There is no opportunity for LGBT couples to adopt children, and no recognition of the relation between children and co-parents in LGBT families.<sup>27</sup>
- [22]. LGBT organisations and persons identify both practical and symbolic negative consequences. The question of family rights is central to the public debate concerning LGBT issues, and high on the agenda of LGBT organisations.<sup>28</sup>
- [23]. Parenthood is gaining greater visibility in public debates and on the agenda of the LGBT movement. Research shows that 20.5 per cent of Italian gay men and 17.7 per cent of lesbians are parents, and that

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<sup>23</sup> International Herald Tribune, May 19, 2008.

<sup>24</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>25</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>26</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>27</sup> M. Cartabia (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Italy*, FRALEX.

<sup>28</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

desire for having children or expanding families is widespread.<sup>29</sup> Assisted insemination is still a rare phenomenon, but interest seems to be rapidly growing, especially among lesbians, even though donor insemination is illegal in Italy.<sup>30</sup>

- [24]. According to *Arcigay* and *Arcilesbica*, it is more difficult to get public housing for those who are not married.<sup>31</sup>
- [25]. Same-sex partners are not eligible to residence permits on the basis of their partnership. Freedom of movement is fully assured to single persons, regardless of personal conditions or sexual orientation. However, Italian law does not consider same-sex marriage, registered partnership or durable relationship, duly attested, as autonomous entitlement to enjoy freedom of movement equal to heterosexual married persons.<sup>32</sup>
- [26]. There is a growing number of cases involving Italian citizens marrying, or otherwise legally registering their relationship, in another EU country and asking for recognition of their status as a couple in Italy. A number of lawsuits are currently pending.<sup>33</sup>
- [27]. Several local and regional Public Administrations recognise civil unions or same-sex partnerships. However, without national legislation, this has more symbolic than practical value. Similarly, some regional governments recognise the rights of same-sex partners in the regulations under their competence.<sup>34</sup>

## C.5. The Labour Market

- [28]. The labour market is the only area in which sexual orientation is explicitly recognised as a ground for discrimination by Italian legislation. The Employment Directive 2000/78/EC has been implemented in Italy by *Decreto legislativo* [Legislative Decree] no. 216 of May 7, 2003, issued by the government acting upon delegation by the parliament. However, according to the European Commission, some parts of the Directive have not been properly implemented: 1) cases where differences of legal treatment cannot be qualified as discrimination because they are justified as genuine and determining occupational requirements, 2) the role of associations in engaging in

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<sup>29</sup> www.modidi.net

<sup>30</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>31</sup> Field trip meeting with *Arcigay* and *Arcilesbica* (Italy, 5 March 2008).

<sup>32</sup> M. Cartabia (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Italy*, FRALEX.

<sup>33</sup> M. Cartabia (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Italy*, FRALEX.

<sup>34</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.



judicial or administrative procedures against discrimination, 3) burden of proof, and 4) victimization.<sup>35</sup>

- [29]. Sociological findings<sup>36</sup> point to broader, and more subtle, forms of disadvantage at work than the episodes that are clearly recognizable and recognised by their victims as discrimination. LGB persons often do not perceive homophobic verbal abuse as discrimination.
- [30]. The majority of LGB employees are open about their sexual orientation to at least one colleague, but much fewer are broadly visible to all. Gay men and lesbians especially avoid disclosure with their bosses. Women tend to be particularly cautious, and visibility is reduced among the highly educated.<sup>37</sup>
- [31]. Disclosure is usually met with acceptance, indifference or curiosity. In studies, fewer than 10 per cent reported reactions of open resentment. More frequent is the experience of witnessing discrimination or harassment against other LGBT persons in the workplace. There have been cases of LGBT persons being fired or forced to leave jobs due to homophobic reactions.<sup>38</sup>

## C.6. Education

- [32]. Surveys point to widespread harassment and bullying in schools. In a 2001 survey from Turin, 48 per cent of gay men and 10 per cent of lesbian women reported harassment or social isolation by other students when they were in school.<sup>39</sup> Similar figures (41 per cent of men and 21 per cent of women) were found in a more recent sample.<sup>40</sup> Although harassment by teachers seems to be more rare, victims referred to their indifference and lack of support.
- [33]. Homophobic bullying gained visibility in the media in 2007 due to a suicide in Turin. The mother of the 16-year-old boy who committed suicide reported that he was distressed because he was identified as gay and bullied at school. The case was at the centre of media debates and public meetings. LGBT organisations pointed out that it was not an isolated case.<sup>41</sup>

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<sup>35</sup> M. Cartabia (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Italy*, FRALEX.

<sup>36</sup> For example C. Saraceno (2003) *Diversi da chi? Gay, lesbiche, transessuali in un'area metropolitana*, Roma: Derive Approdi, and M. Barbagli, A. Colombo (2007) *Omosessuali moderni*, Bologna: Il Mulino.

<sup>37</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>38</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>39</sup> C. Saraceno (2003) *Diversi da chi? Gay, lesbiche, transessuali in un'area metropolitana*, Roma: Derive Approdi.

<sup>40</sup> A 2007 web survey commissioned by Regione Toscana carried out by the Department of Social Research, University of East Piedmont.

<sup>41</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

- [34]. School curricula, including sex education, are characterised by silence on LGBT issues. LGBT teachers' visibility seems to be particularly limited, and perceived as very risky.<sup>42</sup>

## C.7. Health Service

- [35]. Same-sex partners are often not recognised as next of kin, resulting in denial of information and no influence on the treatment of the partner. There is often no recognition of the special needs of LGBT patients (for example, lesbians worrying about and avoiding gynaecological examinations). Gay men are not allowed to give blood. Even though homosexuality is not officially considered an illness, it is still to some extent considered a disorder.<sup>43</sup>
- [36]. A 2005 survey<sup>44</sup> investigating health and sexuality issues pointed to the need for continuing action on HIV/AIDS prevention specifically targeting gay persons: One third of the male respondents said it was difficult to find information about which sexual behaviours carry risks of infection. Women reported a lack of information on practices and prevention regarding sex between women.
- [37]. The majority of respondents in the above-mentioned survey were not visible as gay or lesbian to their doctors. Surveys show that about a third of the interviewees were afraid that they would receive worse treatment from health workers because of their sexual orientation. In actual experience, 14.5 per cent of persons, both men and women, said that after discussing their sexual orientation, their relationship with their doctor improved. It deteriorated in 4.5 per cent of cases and did not change in 81 per cent of cases.

## C.8. Religion

- [38]. LGBT organisations denounce the influence of the Catholic Church on Italian politics. The hierarchies of the Catholic Church have been strongly critical toward the possibility of legal recognition of same-sex partnerships, publicly arguing that such unions are against nature and must not be passed by parliament. Church leaders have also criticized TV broadcasts presenting positive images of gay and lesbian life.<sup>45</sup>
- [39]. There is no sociological research on the extent of homophobia and discrimination against LGBT persons in the institutions of the Catholic Church in Italy. However, there are several anecdotal accounts of such behaviour, for example harassment by teachers in

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<sup>42</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>43</sup> Field trip meeting with *Arcigay* and *Arcilesbica* (Italy, 5 March 2008).

<sup>44</sup> [www.modidi.it](http://www.modidi.it)

<sup>45</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

Catholic schools, bullying in Catholic youth groups and verbal offences and physical violence by priests.<sup>46</sup>

[40]. See also the section about Freedom of Assembly.

## C.9. Sports

[41]. There is very low LGBT visibility in sports, and neo-fascist groups expressing anti-LGBT sentiment are present among several fan clubs and hooligan groups.<sup>47</sup> However, in recent years LGBT sports groups have emerged in Italy, and some events have received public funding.<sup>48</sup>

## C.10. Media

[42]. LGBT organisations perceive limited and distorted media coverage on their issues, and have identified cases of homophobia put forward in media by politicians and church leaders.<sup>49</sup> A sociological study on media coverage of gay and lesbian parenthood confirmed the limited visibility of LGBT organisations and their arguments.<sup>50</sup>

## C.11. Asylum and Subsidiary Protection

[43]. Directive 2004/83/EC has been implemented by Legislative Decree 251/2007.<sup>51</sup> Article 8 acknowledges that persecution for belonging to a particular social group characterised by the common feature of sexual orientation is to be considered as among the grounds for asylum.

[44]. Official data supplied by the *Ministry for Internal Affairs* regarding the period between 2005 and the start of 2008 showed that at least 29 of the 54 requests for asylum on grounds of sexual orientation persecution have been accepted. In these cases, either refugee status or a separate form of humanitarian protection was granted.

[45]. Two recent Supreme Court of Cassation decisions<sup>52</sup> recognising refugee status affirm that the petitioner must prove that in the country of origin, homosexuality, as a private personal practice and not only as

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<sup>46</sup> Research findings from the Torino research of 2001 and from the Daphne project '*Family Matters. Supporting families to prevent violence against gay and lesbian youths*' (2006-2008).

<sup>47</sup> Field trip meeting with *Arcigay* and *Arcilesbica* (Italy, 5 March 2008).

<sup>48</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>49</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>50</sup> L. Trappolin (2006) 'Omogenitorialità. Frontiere, regole e routine', in: F. Bimbi, R. Trifiletti (eds.) *Madri sole e nuove famiglie*, Roma: Edizioni Lavoro.

<sup>51</sup> Italy/Decreto legislativo 251/2007 (19.11.2007).

<sup>52</sup> Italy/Corte di Cassazione.

a public manifestation of ‘sexual indecency’, is considered a criminal offence.

- [46]. LGBT organizations point out that the granting of asylum is partly dependent on the work of lawyers that make an effort collecting information on conditions in countries of origin.<sup>53</sup>

## C.12. Family Reunification

- [47]. Because of lack of official recognition of same-sex partnerships in Italy, LGBT persons do not have access to reunification with partners who are not Italian citizens. Data about family reunification do not exist, since the Italian legal system provides family reunification only for spouses, therefore excluding same-sex marriage (Art. 2 e Legislative Decree 5/2007, Art. 29 a Legislative Decree 286/1998 ).<sup>54</sup>
- [48]. LGBT organisations point to the growing number of Italians living abroad with their foreign partner and wanting to come back to Italy. In cases with a registered partnership, as in a case of a couple moving from New Zealand to Italy, the partner is not granted a residence permit.<sup>55</sup>

## C.13. Transgender Issues

- [49]. As far as sex reassignment proceedings are concerned, a transsexual person must make two requests to a judge: First, he/she must be authorised to have the required surgery. This judicial authorisation allows the person to obtain this surgery in public hospitals free of charge. Secondly, he/she can ask for a judicial order which gives consent to change the details of sex and name in the records of the *Ufficio dello Stato civile* [Registrar of Civil Status].<sup>56</sup>
- [50]. It is very difficult to collect case law on this subject. It seems that:
- [51]. - the lack of a judge’s prior authorisation for surgery cannot preclude a subsequent recognition of the individual’s right to sexual identity, if authorisation could have been given in such a case.<sup>57</sup>
- [52]. - male to female reassignment is usually authorised only when the male has had complex surgery including orchidectomy, penectomy and vaginoplasty. If the person is not able (for example due to illness) or unwilling to undergo these complex procedures, he cannot obtain the judicial order and the consequent sex reassignment, even if he takes prescribed sex hormones. Only in two cases, it seems, has a

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<sup>53</sup> Field trip meeting with *Arcigay* and *Arcilesbica* (Italy, 5 March 2008)..

<sup>54</sup> Italy/Decreto legislativo 5/2007, Decreto legislativo 286/1998 (25.07.1998). (*Testo unico sull’immigrazione*).

<sup>55</sup> [www.arcigayroma.it](http://www.arcigayroma.it).

<sup>56</sup> M. Cartabia (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation in Italy*, FRALEX.

<sup>57</sup> Italy/Tribunale di Milano (05.10.2000).

judge ordered a sex reassignment after a simple orchidectomy, and only in one case did a judge order a sex reassignment without any operation, as the transsexual concerned was very ill and probably near to death.<sup>58</sup>

- [53]. - female to male change is usually authorised when the female has had surgery, including mastectomy and hysterectomy. By contrast, surgery for penile reconstruction is not requested because it is a very difficult operation, with a high failure rate.
- [54]. Those who marry after the transition have the possibility of proposing themselves as adoptive parents. According to transsexual and transgender organisations, however, prejudices in the assessment process undermine this possibility<sup>59</sup>.
- [55]. Qualitative sociological research on transsexual and transgender persons' living conditions has highlighted the many forms of social and economic distress which characterize the transition period before legal sex reassignment.<sup>60</sup> This period can last several years or be a permanent status for those who do not want to undergo sex reassignment surgery.
- [56]. Work is one of the main areas of distress. Research has shown the high risk of being a victim of harassment at the workplace or being fired, and the difficulty of transsexual persons in finding a job when their appearance does not fit with their documents.<sup>61</sup>
- [57]. According to *Arcigay* and *Arcilesbica*, the lack of access to the labour market relegates a relatively large number of transgender persons (particularly transgender women) to prostitution, and the ban on prostitution in Italy further marginalizes transgender sex workers.<sup>62</sup>

#### C.14. Multiple Discrimination

- [58]. LGBT organizations acknowledge that lesbians and bisexual women face additional problems compared to gay and bisexual men because they face gender discrimination. *Arcilesbica* split from *Arcigay* in 1997 in order to focus and prioritise lesbian empowerment and visibility.
- [59]. *AL* and *AG* also underline that LGBT migrants and ethnic minorities may experience multiple discrimination or face specific problems due to their backgrounds.<sup>63</sup>

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<sup>58</sup> Italy/Tribunale di Roma (18.10.1997).

<sup>59</sup> www.onig.it.

<sup>60</sup> C. Saraceno (2003) *Diversi da chi? Gay, lesbiche, transessuali in un'area metropolitana*, Roma: Derive Approdi.

<sup>61</sup> C. Bertone (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in Italy*. Sociological Country Report.

<sup>62</sup> Field trip meeting with *Arcigay* and *Arcilesbica* (Italy, 5 March 2008)..

<sup>63</sup> Field trip meeting with *Arcigay* and *Arcilesbica* (Italy, 5 March 2008)..

[60]. Recent research on disability and homosexuality shows strong effects for multiple discrimination in the sense that disabled gays and lesbians experience exclusion both by organizations for disabled persons and from within the homosexual community.<sup>64</sup>

## D. Good Practice

[61]. Good Practices are described in Annex 1.

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<sup>64</sup> P. Berardi (2007 *Omo-disabilità: quale rapporto tra omosessualità e disabilità*, Arcigay: Rapporto di ricerca.