

European Union  
Agency for Fundamental Rights (FRA)

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Homophobia and Discrimination on  
Grounds of Sexual Orientation and Gender  
Identity in the EU Member States

Part II: The Social Situation

(Updated version)

# Foreword

On December 18 2008 the UN General Assembly heard a strong declaration drafted by France and The Netherlands on behalf of the European Union and co-sponsored by sixty-six countries from all regions. It called for the global decriminalization of homosexuality and condemned human rights violations based on sexual orientation or gender identity.

In the European Union Article 13 of the EC Treaty prohibits any discrimination based on sexual orientation and the EU's Charter of Fundamental Rights is the first international human rights charter to explicitly include the term "sexual orientation". The legal study we published in June 2008 shows that 18 EU Member States already provide quite comprehensive protection against discrimination on grounds of sexual orientation. In July 2008, a further step has been made when the European Commission proposed stronger EU wide protection against discrimination on all grounds.

The social situation, however, is worrying. In recent years a series of events in EU Member States, such as the banning of Pride marches, hate speech from politicians and intolerant statements by religious leaders, have sent alarming signals and sparked a new debate about the extent of homophobia and discrimination against lesbian, gay, bisexual, transsexual and transgendered (LGBT) persons in the European Union. Such events led the European Parliament to adopt in 2005 a resolution condemning homophobia and sexual orientation discrimination.

Two years later in the summer of 2007 the European Parliament asked the newly established Fundamental Rights Agency to develop a comprehensive comparative report covering all EU Member States on the situation regarding homophobia and sexual orientation discrimination. In response the Agency carried out a large scale legal and social research project during 2007 and 2008.

This comprehensive report composed of two parts, a legal and a social analysis, is presented to the European Parliament and its Committee on Civil Liberties, Justice and Home Affairs as evidence for actions needed in order to respect, protect and promote the fundamental rights of LGBT persons across the EU.

The social analysis contained in this publication is based on data and contextual information contained in country reports for all EU Member States. Unique material was gathered through fieldwork interviews with LGBT NGOs, Equality Bodies and public authorities in all Member States and a questionnaire survey of stakeholders. This new data has been combined with a thorough examination of existing academic studies and Eurobarometer surveys to develop the second part of our report, a comprehensive social analysis that complements the FRA's legal analysis released in June 2008.

The work shows that the current human rights situation for lesbians, gay men, bisexuals, transsexuals and transgender persons is not satisfactory. Many LGBT persons experience discrimination, bullying and harassment, while, more worryingly, occurrences of physical attacks were also detected: Derogative words are used for gays and lesbians at schools. Harassment can be an everyday occurrence at the workplace. Relationships often lack the ability to secure one another as full legal partners. At retirement homes, awareness of LGBT persons' needs is rare. Under these circumstances 'invisibility' becomes a survival strategy. In a European Union that bases itself on principles of equal treatment and non-discrimination legislation this is unacceptable.

What needs to be done?

Combating fundamental rights violations effectively requires first of all a firm political commitment to the principles of equal treatment and non-discrimination. Political leaders at EU and national level need to take a firm stance against homophobia and discrimination against LGBT and transgendered persons contributing in this way to a positive change in public attitudes and behaviour.

Secondly, it requires good knowledge of the situation based on robust data guiding the development of evidence based policies and actions. This research represents an important positive step in this direction. But equality authorities and other specialised bodies in many Member States still need to develop data collection mechanisms, promote research, and actively encourage LGBT people to come forward and lodge complaints on incidents of discrimination.

In the light of the findings of this social analysis, the Agency welcomes the European Commission's Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation. This new Directive would extend the protection against discrimination on grounds of sexual orientation beyond the area of employment and thus address some of the key issues emerging from this report.

The opinions contained in this report provide EU institutions and the Member States, as our Regulation requires, with the necessary assistance and expertise in order to support them when taking measures or action within their respective spheres of competence to fully respect fundamental rights.

In closing I would like to thank for their work the staff of the Agency, Caroline Osander, project manager from the *Danish Institute for Human Rights*, and project manager, Mikael Keller, and consultant Mads Ted Drud-Jensen from *COWI*.

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# Executive Summary

## Background

The principle of equal treatment constitutes a fundamental value of the European Union. The Charter of Fundamental Rights of the European Union is the first international human rights instrument to explicitly prohibit discrimination on the basis of “sexual orientation” in its Article 21 (1):

“Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited”.

Until the Treaty of Amsterdam, the focus of EU legal action in this respect was on preventing discrimination on the grounds of nationality and sex. Article 13 of the Amsterdam Treaty granted the Community new powers to combat discrimination on the grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Consequently, two new EC Directives were enacted in the area of anti-discrimination: the Racial Equality Directive and the Employment Equality Directive. However, protection against discrimination on grounds of sexual orientation is only provided by the Employment Equality Directive in the area of employment and work.

In June 2007 the European Parliament asked the Fundamental Rights Agency to develop a comprehensive, comparative report on the situation regarding homophobia and discrimination based on sexual orientation in the Member States of the European Union with the aim of assisting the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament, when discussing the need for a Directive covering all grounds of discrimination listed in Article 13 of the EC Treaty for all sectors referred to in the Racial Equality Directive 2000/43/EC. These sectors are education, social security, healthcare, and access to goods and services.

In response the Agency prepared and launched a major project in December 2007 composed, following its socio-legal interdisciplinary methodology, of two parts. The first part, published in June 2008, is contains a comprehensive, comparative legal analysis of the situation in the European Union Member States. The comparative legal analysis was based on 27 national legal studies covering all EU Member States drafted on the basis of detailed guidelines provided by the FRA. The second part, which is the present publication, is a comprehensive, comparative social analysis, based on available data throughout the European Union, as well as fieldwork research consisting of interviews and roundtable discussions with relevant key actors, carried out by the Danish

Institute for Human Rights (DIHR) and the international consultancy firm COWI.

A strictly accurate list of the issues covered in this report would be “homophobia, transphobia, and discrimination on grounds of sexual orientation, gender identity and gender expression”. Definitions of all these concepts are found in the ‘Clarification of terms’ section of the ‘Introduction and Terms’ section. When necessary for accuracy in meaning, all of these terms will be used in full. However, for the sake of ease of style, in parts of the report, all of these areas will be simply assumed to be implicit under the headings of ‘homophobia’ and ‘discrimination on grounds of sexual orientation’; the term ‘homophobia and related issues’ will also be used sometimes to include these other areas.

## 1. Key findings

The current social situation for lesbians, gay men, bisexuals, transsexuals and transgender (LGBT) persons represents a problem for the European Union. Lesbians, gay men, bisexuals, transsexual and transgender persons experience discrimination, bullying and harassment across the EU. This often takes the form of demeaning statements, name calling and insults or the use of abusive language, and also, more worryingly, verbal and physical attacks. As the results of the July 2008 Eurobarometer Discrimination Survey showed, on average over half of EU citizens consider that discrimination on grounds of sexual orientation is widespread in their country.

Our investigation also shows that in their everyday life LGBT persons experience *homophobia*; the irrational fear of, and aversion to, homosexuality and to lesbians, gay men and bisexuals stemming from prejudice. Transgender persons experience in a similar way *transphobia*.

Discrimination, homophobia and transphobia affect the lives and choices of LGBT persons in all areas of social life. From their early years the derogative words used for gays and lesbians at schools teach them to remain invisible; they often experience harassment and discrimination at the workplace; in many countries they cannot secure their relationships to one another as legal partners; they rarely see positive LGBT representation in the media; when seeking treatment for themselves or their partner they hesitate to reveal themselves in settings that take heterosexuality for granted; at retirement homes, understanding and awareness of their needs is rare. And if they are refugees seeking asylum from persecution in third countries because of their sexual orientation or gender identity, they are often not believed or, worse, simply rejected, even if in the country from which they fled homosexuality is a crime.

Fear of discrimination, homophobia and transphobia contributes to the ‘invisibility’ of LGBT persons in many parts of Europe and in many social settings. LGBT persons often adopt ‘invisibility’ as a ‘survival strategy’ because of the perceived risks of being exposed to discrimination. This contributes to the comparatively low number of discrimination complaints on grounds of sexual orientation, gender identity or gender expression across the EU compared to complaints of discrimination on other grounds.

### **Some differences between Member States**

The fundamental right to freedom of assembly has been obstructed in a number of Member States either by public authorities or by ‘counter-demonstrator’ attacks. Such incidents were reported in five Member States (Bulgaria, Estonia, Latvia, Poland and Romania). Furthermore, in these, and in six additional Member States (Bulgaria, Czech Republic, Cyprus, Hungary, Italy and Malta), calls for improving the rights of LGBT persons have invariably been met with negative responses from some politicians and representatives of religious institutions or groups.

In other Member States, however, LGBT organisations celebrated pride events often with the participation of government ministers, political parties, and, in some cases, religious organisations: in **the Netherlands** the 2008 Canal Pride in Amsterdam was joined by three government ministers, representing the cabinet, and the mayor of Amsterdam. In **Austria**, among the 120,000 participants of the 2008 Pride was the equality body of the city of Vienna; In **Sweden**, the Minister for EU Affairs opened the 2008 Stockholm EuroPride attracting more than 80,000 participants among which the country’s Lutheran Church; In **Spain**, the 2008 Madrid Pride was joined by the Equality Minister and hundreds of thousands of participants from all over Europe; In **France**, more than half a million joined the Paris Gay Pride in 2008 including the Mayor of Paris.

Another issue that was already analysed in the FRA’s legal study concerns differences between Member States regarding partnership rights. Fourteen Member States (Austria, Bulgaria, Cyprus, Estonia, Greece, Hungary,<sup>1</sup> Ireland, Italy, Latvia, Lithuania, Malta, Poland, Romania and Slovakia) do not grant any partnership rights to LGBT persons, but three Member States (Belgium, the Netherlands and Spain) have given same-sex couples full marriage rights. Lack of partnership rights means that same-sex couples lack access to a number of rights and benefits enjoyed by opposite-sex couples.

Major differences between EU Member States also exist regarding public opinion towards LGBT people and issues. For instance, the Eurobarometer Discrimination Survey in 2006 found that the majority of the population in the Netherlands (82 per cent), Sweden (71 per cent) and Denmark (69 per cent) was

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<sup>1</sup> Hungary was introducing a law providing for registration of same-sex couples, but this was repealed by the Hungarian Constitutional Court in December 2008.

in favour of same-sex marriage, but only a small minority in Romania, (11 per cent), Latvia (12 per cent) and Cyprus (14 per cent). Also, while in the Netherlands 91 per cent of the population was comfortable with having a homosexual as a neighbour, in Romania only 36 per cent was of the same opinion. The Eurobarometer Discrimination Survey in 2008, using a ten-point 'comfort scale', produced similar results: Swedes (9.5), Dutch and Danish respondents (9.3) were the most 'comfortable' with the idea of having a homosexual as a neighbour, but a much lower 'comfort' level was recorded in Bulgaria (5.3), Latvia (5.5) and Lithuania (6.1).

### **Some differences within Member States**

It is also worth mentioning differences *within* Member States made apparent by the Eurobarometer Survey. These concern: (1) those with negative attitudes towards LGBT persons (for example, older people more than young, men more than women, the less-educated more than the well-educated); (2) the situations, where LGBT persons tend to be regarded more negatively (for example, when caring for or teaching children, or as close relatives generate more hostile reactions than as friends or doctors); and (3) those most affected by hate crime and bullying (for example, young people more than older).

### **Attitudes towards LGBT persons**

According to the Eurobarometer Survey attitudes toward LGBT people vary significantly between EU Member States depending on the context LGBT people are placed in. The most positive results appear when people are asked if they want a homosexual as a neighbour. The most negative results surface, when asked, if homosexuals should be allowed to adopt children.

In countries with strong legislative protecting the rights of LGB people, including the right for a legal partnership, general attitudes towards LGB people tend to be more positive.

Attitudes towards transgender persons are significantly more negative compared to attitudes towards lesbians, gay men and bisexuals.

### **Hate crime and hate speech**

Homophobic hate crime affects LGBT persons in various ways. Verbal aggression is the most commonly experienced type of hate incident, and usually occurs in public spaces. Young people are subjected to assaults more than other age groups (including bullying at school), while lesbian and bisexual women are more likely to experience sexual assaults or assaults in private settings than gay or bisexual men. The perpetrators are usually young men in groups. In recent years there have been several accounts of deadly assaults on transgender persons.



Underreporting is a key feature of homophobic and transphobic crime, like in other forms of hate crime. Most Member States lack the necessary tools for reporting such incidents to the police, such as self-reporting forms or third party and assisted reporting. Police officers in most Member States are not adequately trained to identify and deal with hate crime. Underreporting is also explained by the reluctance of most LGBT victims to disclose their sexual identity, often because authorities are not sensitive to their situation or because they are not trained to deal with such incidents in support of the victim. Underreporting is a serious problem because it results in official figures that do not reveal the real extent of the problem. Additionally, across the EU there is little research on the numbers, character, perpetrators or victims of homophobic or transphobic hate crimes.

Attacks on LGBT venues are a problem in some Member States. LGBT NGO premises have been vandalised, and other meeting places have been burnt down or the clientele seriously harassed or assaulted.

Hate speech against LGBT persons takes place, among other contexts, in political debates concerning LGBT rights or during counter-demonstrations at public LGBT events such as Pride. Homophobic statements by political and religious figures appear in the media. In such statements, LGBT persons are often depicted as unnatural, diseased, deviant, linked to crime, immoral or socially destabilising.

The Internet, as platform for the publication of hate speech, is an area of particular concern. During the fieldwork research LGBT NGOs and National Equality Bodies stressed that, due to the nature of the internet, perpetrators are not easily found or prosecuted.

### **Freedom of Assembly**

LGBT persons have exercised their right to freedom of assembly when fighting homophobia and campaigning for LGBT rights - most notably during Pride Parades or similar gatherings and events. In recent years, bans or administrative impediments created problems to the organisation of lawful, peaceful LGBT demonstrations in Estonia, Latvia, Lithuania, Poland, Romania and Bulgaria, although, with the exception of Lithuania, LGBT NGOs subsequently managed to carry out the events in those Member States.

In some Member States, public authorities have not been able, or willing, to ensure the safety of participants in LGBT demonstrations from attacks by counter-demonstrators. Within the last five years attacks of this kind have occurred in Sweden, Estonia, Latvia, Poland, Czech Republic, Hungary, Italy, Romania and Bulgaria. Such incidents were often accompanied by homophobic public statements or hate speech.

In some Member States LGBT NGOs have also experienced problems in renting premises for political or cultural activities, and organisers of public LGBT debates have encountered problems in obtaining access to cultural and political venues.

### **The Labour Market**

The invisibility of LGBT persons and the relatively low level of recorded complaints make the true extent of homophobia, transphobia and discrimination based on sexual orientation and gender identity difficult to measure. A general lack of rights awareness coupled with the reluctance of LGBT persons to acknowledge their sexual orientation, gender identity or gender expression in a public trial, may partly explain this phenomenon. However, research and NGO reports suggest that LGBT persons are often subject to homophobia and discrimination at work in a number of ways: direct discrimination, harassment, bullying, ridicule and being socially 'frozen out'.

Many workplaces are not considered 'safe' for LGBT staff. Although data varies according to national context, studies and fieldwork interviews demonstrate that the majority of LGBT persons are generally reluctant to reveal their sexual orientation in their place of work.

Past negative experiences, fear of discrimination, the risk of dismissal and the quality of the working environment all play a role in determining LGBT persons' decisions about openness, and there is evidence that closeted sexual orientation can affect the health and well-being of LGBT staff in a negative way.

The existence of equal treatment and diversity policies in the workplace and the decisive role of management in implementing such policies determine whether LGBT persons will perceive their work environment as safe and inclusive. Evidence shows that effective employment equality legislation empowers LGBT persons to complain formally in cases of discrimination.

### **Education**

Incidents of bullying and harassment of LGBT persons are reported in educational settings across the EU. Verbal homophobia and transphobia are commonplace, and the word 'gay' is commonly used in a derogatory way.

Bullying and harassment have significant consequences for LGBT youth, affecting school performance and well-being. Such experiences can lead to social marginalisation, poor health or dropping out of school. Existing research and interviews with LGBT NGOs demonstrate that school authorities across the EU pay little attention to homophobia and LGBT bullying. Research also shows that teachers lack the awareness, incentives, skills and tools to recognise and tackle such problems.

The lack of recognition, representation and positive LGBT images in education in the majority of EU Member States is another concern raised by NGOs, as it contributes to a lack of awareness, sensitivity and understanding contributing to the social isolation of LGBT students. Teachers are rarely trained, prepared or inclined to discuss the issue of sexual identity and orientation.

### **Health care**

Some research evidence indicates that LGBT persons experience discrimination in health care. Negative experiences include labelling their sexual orientation as a disturbance or a sickness. However, it is difficult to determine the real extent of discrimination against LGBT persons in health care, as they tend to conceal their sexual orientation.

Studies and fieldwork interviews reveal both positive and negative reactions from health care personnel when an LGBT person discloses her/his sexual orientation or gender identity. Negative attitudes towards LGBT people or the perceived risk of encountering such attitudes can lead some LGBT persons to avoid seeking health care.

Additionally, the general health status of LGBT persons is a major concern. Existing research correlates homophobia, transphobia, harassment or marginalisation with a generally poorer mental and physical health of LGBT persons. The LGBT NGOs and public authorities interviewed reported higher rates of poor mental health, suicide and substance abuse among LGBT persons.

Finally, lack of recognition of same-sex partners as '*next of kin*' creates difficulties regarding access to information and decision-making about a partner's health and treatment, as well as problems with hospital visitation.

### **Religious institutions**

Responses of religious institutions towards LGBT persons and rights vary considerably. In several Member States church representatives actively engage in political debates concerning LGBT rights, often mobilising and lobbying against the adoption of such rights. In some cases religious groups have also campaigned against LGBT events. As employers, religious institutions occasionally used exemptions in anti-discrimination legislation against LGBT employees.

On the other hand there are also examples of religious institutions and organisations that have reached out to LGBT people.

### **Sports**

Homophobia is found in sporting contexts and there appear to be significant challenges related to being an openly LGBT person in sports. Homophobia is expressed in different ways, both in fan culture and among athletes, and when homophobic language is used to ridicule opponents or referees.

A key finding regarding sport is the significant lack of LGBT visibility. LGBT persons are perceived to have few possibilities to be 'out' in sports due to risk of harassment, homophobia or rejection from fellow club members.

LGBT NGOs in Spain and the United Kingdom note that sports associations have only a limited focus on placing homophobia on the anti-discrimination agenda especially compared to efforts to tackle sports racism.

## **Media**

Incidents of homophobic speech can still be found in the media in some Member States, while homosexuality is still considered a taboo in varying degrees. Across the EU LGBT persons lack media visibility, although gay men are more visible than lesbians or transgender persons.

LGBT persons are subject to various forms of media stereotyping. The use of semi-erotic illustrations on articles covering topics of great concern to LGBT persons contribute to prejudice and reinforce the idea that sexual orientation is only about sexual activity and preferences. Journalists across the EU would benefit from a better understanding of LGBT issues in order to report in a representative and balanced way.

However, there is also evidence that things are slowly changing and already some studies note an increase in media depictions across the EU that include a more nuanced and informed perspective on LGBT persons and issues.

## **Asylum**

Although all Member States recognise persecution on grounds of sexual orientation and gender identity as a valid ground for asylum, in many Member States, asylum application procedures remain unclear.

LGBT persons face particular difficulties in the asylum seeking process, as intimate, sexual or taboo information can be difficult to present openly to public authorities. Moreover, staff and interviewing techniques often do not recognise this difficulty. The authorities' knowledge, used to determine refugee status, about the conditions for LGBT people in countries of origin is often skeletal.

Several LGBT asylum seekers have been rejected either because their claim to a homosexual orientation was regarded as untrustworthy or because they were expected to be able to live in their country of origin 'privately' as homosexuals (i.e. remain closeted).

LGBT asylum seekers in detention centres lack information and may experience social isolation and abuse because of their sexual orientation or gender identity.

## **Multiple Discrimination**

LGBT persons constitute a diverse group and may risk discrimination on two or more grounds. Discrimination and exclusion can be compounded by a disabled, elderly or ethnic/religious minority status combined with LGBT identity.

Ethnic minorities risk discrimination on grounds of sexual orientation or gender identity within their ethnic minority communities and discrimination on grounds of race or ethnic background in the LGBT community.

Disabled LGBT persons may experience '*asexualisation*' by, among others, caretakers and members of the LGBT community itself. Furthermore, inaccessible LGBT venues, bars and meeting places create physical obstacles for disabled LGBT persons attempting to participate in the LGBT community.

Some LGBT persons in care facilities and care homes for the elderly face social isolation and stereotyping from personnel and other residents.

## **Transgender persons**

Transgender persons include those who have a gender identity which is different than the gender assigned at birth and those who wish to portray their gender identity in a different way than the gender assigned at birth. It also includes persons who present themselves as contrary to the expectations of the gender role assigned to them at birth, whether through clothing, accessories, cosmetics or body modification. This includes, among many others, transgender persons between male and female, transsexuals, transvestites and cross-dressers.

Transgender persons face transphobia and discrimination on grounds of their gender identity and expression and not necessarily because of their sexual orientation. Transgender persons can be heterosexual, homosexual or bisexual.

Discrimination against transgender persons occurs in all areas investigated for this report and especially affected by hate crime and hate speech. Discrimination in health and employment is more pronounced. Surveys show that transgender people face more negative attitudes than LGB people.

# Opinions

According to Art 4(1)(d) of Council Regulation 168/2007, the European Union Agency for Fundamental Rights is entrusted with the task of formulating opinions for the European Union institutions and the Member States. In the light of the findings of this social analysis, the Agency has the following opinions, in addition to those included in its legal analysis.

1. The FRA welcomes the European Commission's Proposal of 2 July 2008 for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation.<sup>2</sup> This new Directive would extend the area of application of current EU law which prohibits discrimination on the aforementioned grounds but only in the areas of employment, occupation and vocational training. The Agency believes that the amendments suggested in the European Parliament's Draft Report of 14.01.2009 further improve the Commission's Proposal.<sup>3</sup>

## **Strengthening the implementation of anti-discrimination legislation**

2. The European Commission's awareness-raising campaign "*For Diversity. Against Discrimination*" launched in 2003 should be further strengthened and linked to relevant government and civil society activities in the Member States.

3. The European Commission should consider intensifying its efforts to share effectively with Member States models of good practice in the application of the EU's anti-discrimination legislation, particularly through EQUINET, the European network of national Equality Bodies.

4. Member States that have not done so already are encouraged to consider extending the scope of existing Equality Bodies to include discrimination on grounds of sexual orientation within their remit and grant adequate resources to allow the provision of both legal as well as psycho-social support to discrimination victims.

5. Member States are encouraged to develop, or strengthen existing awareness-raising campaigns on LGBT issues. LGBT organisations should be involved in

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<sup>2</sup> Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation {SEC(2008) 2180} {SEC(2008) 2181} /\* COM/2008/0426 final - CNS 2008/0140 \*//available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008PC0426:EN:HTML> (20.01.2009)

<sup>3</sup> European Parliament, Committee on Civil Liberties, Justice and Home Affairs, 2008/0140(CNS) 14.1.2009, Draft Report on the proposal for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, available at <http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARTL&mode=XML&language=EN&reference=PE418.014> (20.01.2009)

the planning and implementation of such projects, creating strong multi-agency partnerships.

6. Member States are encouraged to develop, or strengthen, existing awareness raising and training initiatives specifically targeting public officials at all levels of government on LGBT topics and the principles and obligations regarding equal treatment and non-discrimination contained in national legislation, EU law and international human rights instruments (including case-law of the European Court of Justice and the European Court of Human Rights). LGBT organisations should also be involved in the planning and implementation of such actions.

7. Member States are encouraged to conduct ‘*diversity audits*’ and develop equal treatment and diversity policies for all grounds of discrimination in their public administration at all levels, providing a ‘best practice’ example to other employers.

### **Combating hate crime**

8. Member States should consider developing simple and inclusive operational definitions of hate crime for use by the public in reporting such crimes, and for the police in recording them. In addition, effective tools should be developed to facilitate reporting, such as self-report forms and third party reporting facilities, giving the public the ability to report hate crime at locations other than police stations.

9. Member States should take practical measures to raise awareness among law enforcement authorities on LGBT issues, and to provide adequate training to police in dealing effectively with hate crime incidents, particularly concerning victim support and the systematic recording of incidents. In this regard, the extensive work of the OSCE on hate crime and the Handbook developed by ILGA-Europe on monitoring and reporting homophobic and transphobic incidents could be drawn upon.

10. Member States should ensure that law enforcement officers investigate homophobic crime to the same high standard as other forms of crime. Closer cooperation through, for example, multi-agency partnerships actively involving LGBT organisations, especially in victim support, will facilitate policing by building up the trust needed to improve reporting of homophobic crime.

### **Protecting the right to freedom of assembly**

11. Member States, and particularly local and regional authorities, should facilitate LGBT organisations in their efforts to organise significant events, such as Pride, that create more public awareness on LGBT issues and empower LGBT people, by providing resources and protection against homophobic

counter-demonstrations, especially when such organisations receive no financial or other support by the state.

12. Member States, and particularly local and regional authorities should, in this context, have regard to Recommendation 211 (2007) of the Congress of Local and Regional Authorities of the Council of Europe<sup>4</sup> on freedom of assembly and expression for lesbians, gays, bisexuals and transgendered persons calling, inter alia, for: the application of the (forthcoming) Guidelines on Freedom of Peaceful Assembly drafted by the OSCE/ODIHR Expert Panel on freedom of assembly; for rigorous investigation of all cases of violence or hate speech during LGBT or LGBT-related events; for positive measures as required by the European Court of Human Rights to guarantee effective freedom of assembly and expression at state, local and regional level, and for consultation with LGBT groups when reforming legal measures that interfere with freedom of expression or assembly.

### **Improving asylum procedures and conditions**

13. Member States should develop concrete criteria and guidelines for the treatment of LGBT asylum seekers and for the handling of issues of sexual orientation and gender identity in the application procedures. In this respect authorities could be guided by the UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity<sup>5</sup> published on 21 November 2008, which is particularly useful.

14. Member States should ensure that officials dealing with LGBT immigrants and asylum seekers are aware of issues of sexual orientation and gender identity and appropriately trained to deal with these persons.

15. Member States should pay particular attention to the special needs and issues of LGBT persons held in detention centres.

### **Ensuring equal treatment in the labour market**

16. Social partners should facilitate the active participation of LGBT persons in their organisations and encourage public and private sector employers to adopt and implement diversity and equal treatment policies in the workplace.

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<sup>4</sup> Available at <https://wcd.coe.int/ViewDoc.jsp?id=1099699&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864> (05.02.2009)

<sup>5</sup> UN High Commissioner for Refugees, 'UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity', 21 November 2008, available at: <http://www.unhcr.org/refworld/docid/48abd5660.html> (05.02.2009)



### **Ensuring equal treatment in health**

17. Member States should encourage competent organisations and institutions to include an LGBT perspective in national health surveys.

18. Member States should examine the situation regarding access to health services and the specific issues facing LGBT persons, particularly their ability to claim 'next of kin' status, together with representatives of healthcare professionals and LGBT organisations. In this respect such multi-agency partnerships would facilitate the development of targeted policies to provide quality health care corresponding to the specific needs of LGBT persons.

19. Member States should also ensure that health care providers inform and train their medical and non-medical staff on ethical and diversity issues in order to raise their awareness of LGBT issues, and improve the provision of services to LGBT persons.

20. Member States should ensure all rights to informed consent are respected in regard to procedures on intersex children. Medical associations should ensure that their members are fully informed on current trends in ethics, therapy and care for intersexual persons.

21. Member States are encouraged to take account of the circumstances and specific problems of LGBT seniors within the framework of activities and policies for the improvement of the life of senior citizens.

### **Ensuring equal treatment and participation in sports**

22. Member States are encouraged to work with sports organisations and fan clubs to combat homophobic incidents and hate speech in sports events, supporting them in developing awareness-raising campaigns and applying the rule of 'zero tolerance for hate incidents'.

23. Sports organisations or institutions should consider developing awareness raising programmes on LGBT issues for staff, coaches and athletes, as well as diversity policies and, in particular, harassment policies in relation to sexual orientation and gender identity.

24. Sports organisations or institutions should take the necessary measures to ensure that LGBT athletes and coaches feel safe to be open about their sexual identity, if they choose to do so, without fear of negative consequences.

25. Sports organisations or institutions should ensure that the sexual orientation or gender identity of coaches or athletes is not a factor in determining eligibility for teams, coaching positions or athletic awards.

### **Improving media reporting**

26. The media are encouraged to include in their practice/conduct codes reference to non-discrimination against LGBT persons and issues, and provide formal and informal diversity training to journalists, so as to raise awareness on LGBT issues and avoid hate speech. In this regard the recent Council of Europe Manual on Hate Speech<sup>6</sup> provides useful guidance.

### **Ensuring equal treatment and participation in education**

27. The European Commission should consider applying the Open Method of Coordination to facilitate the exchange of good practices regarding strategies and policies tackling school drop-out rates and the social marginalisation of LGBT young people related to bullying, discrimination and exclusion.

28. The European Commission should also consider applying the Open Method of Coordination to facilitate an exchange of practices and policies developed by Member States which have adopted LGBT specific policies in the field of education, such as Ireland, Sweden and the United Kingdom.

29. Member States should ensure that schools provide a climate of safety, support and affirmation for LGBT youth, combating stigmatisation and marginalisation of homosexuality and different gender identities. In this respect, school authorities should put in place concrete anti-bullying policies stating clearly that homophobic name-calling, bullying and harassment will not be tolerated. School authorities should also provide access to support mechanisms and information for young people identifying themselves as LGB.

30. Member States should ensure that school curricula do not ignore issues of sexual orientation, and that LGBT persons are represented with respect and dignity in accordance with the European Union's fundamental values of equal treatment, non-discrimination and respect for diversity. In this respect, school authorities should further develop their formal and informal human rights education components, guided by the Council of Europe's human rights education manual '*COMPASS*'.

### **Improving knowledge through research and data collection**

31. The European Commission is encouraged to promote more research into LGBT issues in the context of its Seventh Framework Programme for research and technological development (2007-2013) under its socio-economic sciences and humanities programme, and consider developing a specific area for LGBT and transgender- focused research in the Eighth Framework Programme (2014-2020). It should be noted that as LGBT research can be 'blind' to transgender issues, these transgender-specific problems (such as gender recognition) should not be ignored.

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<sup>6</sup> Anne Weber, (2009), 'Manuel sur le discours de haine', Council of Europe

32. Member States should encourage and fund appropriately qualitative and quantitative research on discrimination on grounds of sexual orientation, gender identity and gender expression in all spheres of life and on the extent, nature, causes and impacts of homophobia and transphobia.

# Introduction

*'Respect for the rights of persons, regardless of their sexual orientation, is one of the main criteria for respect for human rights in general... above all, it is necessary to continue to combat stereotypes and prejudices in all possible ways. Homophobia is a prejudice that I consider to be particularly revolting and unjustified.'*

Vladimír Špidla, EU Commissioner for Employment, Social Affairs and Equal Opportunities<sup>7</sup>

*'It is sometimes said that the protection of the human rights of lesbians, gays, bisexuals and transgender people (LGBT) amounts to introducing new rights. That is a misunderstanding. The Universal Declaration of Human Rights and the agreed treaties establish that human rights apply to everyone and that no one should be excluded.'*

Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe<sup>8</sup>

The collection of objective and reliable data on homophobia, transphobia and discrimination is pivotal for the understanding and protection of rights of LGBT persons. For the first time in the European Union, data and information have been collected and analysed from diverse research findings on LGBT issues based on a literature review, questionnaires, country reports<sup>9</sup> carried out by national researchers, interviews with National Equality Bodies, NGOs and public authorities in all 27 Member States and results from two roundtable meetings bringing together experts from LGBT civil society.

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<sup>7</sup> Commissioner Vladimír Špidla speech at the international conference on LGBT rights in Montreal, available at <http://www.ilga-europe.org/Europe/News/International-Conference-on-LGBT-Rights-Montreal/Speech-by-Commissioner-Vladimir-Spidla-at-the-international-conference-on-LGBT-rights-in-Montreal> (04.01.2009)

<sup>8</sup> Viewpoint 2008 available at [http://www.coe.int/t/commissioner/Viewpoints/080514\\_en.asp](http://www.coe.int/t/commissioner/Viewpoints/080514_en.asp) (14.08.2008)

<sup>9</sup> Summaries of the country reports commissioned by DIHR and COWI are released on the FRA website in the interest of transparency. Interpretations and opinions are those of the authors and should not be taken to reflect the position or opinion of the FRA.

The main body of this report is thematically structured covering the following specific, as well as cross-cutting themes:

- Attitudes towards LGBT persons
- Hate crime and hate speech
- Freedom of assembly
- Labour market
- Education
- Health
- Religious institutions
- Sports
- Media
- Asylum
- Multiple discrimination

Transphobia and discrimination on grounds of gender identity and gender expression are mainstreamed throughout the report and specific issues are discussed in a separate section.

Each section consists of data and information from interviews with stakeholders (LGBT NGOs, public authorities and National Equality Bodies), questionnaires, and country reports drafted by national researchers, as well as other existing research and data. See Annex 1 for a list of the national researchers.

Each section highlights the significant issues with examples from studies, surveys, official figures or single cases from various Member States, which should be seen as illustrations of general tendencies and conditions for LGBT persons in individual Member States and across the EU.

The report describes the central social aspects of the situation regarding rights and protection against discrimination and whether and in what ways LGBT persons experience homophobia, transphobia and discrimination and how it affects their lives. In this sense the report builds on, and is complementary to,

the comprehensive legal analysis published earlier.<sup>10</sup> Taken together they provide the necessary evidence for the FRA to develop its opinions on how to tackle the problems identified.

## Clarification of terms and concepts

The FRA undertakes its work on discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation and against persons belonging to minorities and any combination of these grounds (multiple discrimination) on the basis of EU and international standards to combat discrimination, promote equal treatment and guarantee fundamental rights. These standards contain definitions, terms and concepts, which provide a framework for the FRA's data collection methodology and analysis.

**Discrimination**<sup>11</sup> is the less favourable treatment of a person or group than another on various grounds, including sexual orientation (**direct discrimination**), or where an apparently neutral provision is liable to disadvantage a group of persons on the same grounds of discrimination, unless objectively justified (**indirect discrimination**).<sup>12</sup> **Harassment** shall be deemed to be a form of discrimination when unwanted conduct related to any of the grounds takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. Harassment can consist of a single incident or several incidents over a period of time. It can take many forms, such as: threats, intimidation, or verbal abuse; unwelcome remarks or jokes about sexual orientation, gender identity or gender expression.<sup>13</sup>

**Hate crime** toward LGBT persons refers to any criminal offence, including offences against persons or property, where the victim, premises or target of the offence were selected because of their real or perceived connection, attachment, affiliation, support or membership of an LGBT group.<sup>14</sup>

**Hate incident** is any incident, assault or act—whether defined as criminal by national legislation or not—against people or property that involves a victim, premises or target selected because of their real or perceived connection, attachment, affiliation, support or membership of an LGBT group. The term

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<sup>10</sup> European Union Agency for Fundamental Rights (2008), 'Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States: Part 1 – Legal Analysis', FRA 2008

<sup>11</sup> Definition of discrimination—direct and indirect— applied as set out in the Framework Directive on Discrimination; Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

<sup>12</sup> See [http://ec.europa.eu/employment\\_social/fundamental\\_rights/faq/faq1\\_en.htm](http://ec.europa.eu/employment_social/fundamental_rights/faq/faq1_en.htm) (12.08.2008)

<sup>13</sup> See [http://ec.europa.eu/employment\\_social/fundamental\\_rights/faq/faq1\\_en.htm](http://ec.europa.eu/employment_social/fundamental_rights/faq/faq1_en.htm) (12.08.2008)

<sup>14</sup> Definition based on: OSCE/ODIHR (2008), 'Hate Crimes in the OSCE Region - Incidents and Responses, Annual Report for 2007'; the OSCE/ODIHR definition is also used by the Council of Europe

covers a range of manifestations of intolerance, from low-level incidents motivated by bias to criminal acts.<sup>15</sup>

**Hate speech** refers to public expressions which spread, incite, promote or justify hatred, discrimination or hostility towards minorities — for example statements by political or religious leaders appearing in the press or the Internet. There is no universally agreed definition. The 1997 Council of Europe (CoE) Committee of Ministers Recommendation<sup>16</sup> states that the term “shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin”. In its case law the European Court of Human Rights, without adopting a precise definition, has applied this term to forms of expression which spread, incite, promote or justify hatred founded on intolerance, including religious intolerance. The CoE launched in November 2008 a manual on hate speech<sup>17</sup> which points out that, although the ECtHR has not yet dealt with this aspect, homophobic speech also falls into what can be considered as hate speech.

This report also uses some concepts that have not as yet been identified in EU or in international standard setting instruments and do not necessarily have legal value:

**Sexual orientation** ‘sexual orientation’ to refer to each person’s capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.<sup>18</sup>

**Homosexuality and bisexuality** are often, together with transgender, academically and politically encompassed in the joint terms ‘LGBT people’ or ‘LGBT persons’ – lesbians, gay men, bisexuals and transgender people. It is a heterogeneous group that is often bundled together under the LGBT heading in social and political arenas at a local and international level.

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<sup>15</sup> Definition based on: OSCE/ODIHR (2008), ‘Hate Crimes in the OSCE Region - Incidents and Responses’, Annual Report for 2007

<sup>16</sup> Based on the definition found in Recommendation No. R(97)20 of the Committee of Ministers of the Council of Europe to Member States on 'Hate Speech'

<sup>17</sup> More information available at [https://wcd.coe.int/ViewDoc.jsp?Ref=PR799\(2008\)&Language=lanEnglish&Ver=original&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE](https://wcd.coe.int/ViewDoc.jsp?Ref=PR799(2008)&Language=lanEnglish&Ver=original&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE) (3.02.2009)

<sup>18</sup> The Yogyakarta principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, available at [http://www.yogyakartaprinciples.org/principles\\_en.htm](http://www.yogyakartaprinciples.org/principles_en.htm) (22.11.2008)

**Transsexual** is a person who prefers another gender than their birth gender and feels the need to undergo physical alterations to the body to express this feeling, such as hormone treatment and/or surgery.

**Transgender** persons include those who have a gender identity which is different to the gender assigned at birth and those people who wish to portray their gender identity in a different way to the gender assigned at birth. It includes those people who feel they have to, or prefer to, or choose to, whether by clothing, accessories, cosmetics or body modification, present themselves differently to the expectations of the gender role assigned to them at birth. This includes, among many others, transgender persons who are between male and female, transsexual, transvestites and cross-dressers.<sup>19</sup>

**Cross-dresser/transvestite** is a person who regularly, although part-time, 'dresses up' in clothes mostly associated with the opposite gender than their birth gender.

**Gender expression** can be defined as the way in which every human being expresses herself/himself in *genderised* terms – that is to say, the way in which all persons express themselves within the different possibilities that the gender spectrum offers – like masculinity, femininity, androgyny, etc.<sup>20</sup> Gender expression refers to the visible aspects (such as appearance, clothing, speech, and behaviour) of a person's gender identity.<sup>21</sup> In this report gender expression refers especially to those people who cross the traditional bipolar gender-line – for example, cross-dressing men have a male gender identity, but they express their femininity by occasionally dressing up in women's clothes and assuming feminine body language and role expression.<sup>22</sup>

**Gender identity** refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.<sup>23</sup> Gender identity is not the same as sexual orientation, and transgender persons may identify as heterosexual, bisexual or homosexual.

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<sup>19</sup> Definition based on Transgender Europe available at [http://www.transgendereurope.org/viewpage.php?page\\_id=8](http://www.transgendereurope.org/viewpage.php?page_id=8) (20.09.2008)  
The word 'transgenderism' also appears in this report and refers to having a transgender identity or expression.

<sup>20</sup> Cabral, M. 'International Gay and Lesbian Human Rights Commission: Gender Expression and Human Rights', [http://www.iglhrc.org/files/iglhrc/program\\_docs/GEHR%20E.doc](http://www.iglhrc.org/files/iglhrc/program_docs/GEHR%20E.doc) (17.12.08)

<sup>21</sup> Gender Expression Toolkit Ending Discrimination on the Basis of Gender Expression, [http://www.gillfoundation.org/usr\\_doc/2008Gender\\_Expression\\_Toolkit.pdf](http://www.gillfoundation.org/usr_doc/2008Gender_Expression_Toolkit.pdf) (17.12.08)

<sup>22</sup> Mustola, K. 'Outline results of a questionnaire targeted at gender minorities' in J. Lehtonen and K. Mustola "'Straight people don't tell, do they ...?': Negotiating the boundaries of sexuality and gender at work', Ministry of Labour, Finland, 2004

<sup>23</sup> The Yogyakarta principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, available at [http://www.yogyakartaprinciples.org/principles\\_en.htm](http://www.yogyakartaprinciples.org/principles_en.htm) (22.11.2008)



Transgender issues are thus to be regarded as gender issues rather than a question of sexual orientation.

**Hetero-normativity** is what makes heterosexuality seem coherent, natural and privileged. It involves the assumption that everyone is “naturally” heterosexual, and that heterosexuality is an ideal, superior to homosexuality or bisexuality.<sup>24</sup>

**Heterosexism** can be defined as discrimination in favour of heterosexual and against homosexual people, based on the assumption that heterosexuality is the only ‘normal’ lifestyle. “Heterosexist” discrimination against LGBT people would include, for example, instances of direct and indirect discrimination, as defined in the EU anti-discrimination directives.’

**Multiple discrimination** describes discrimination that takes place on the basis of several grounds operating separately. **Intersectional discrimination** refers to a situation where several grounds operate and interact with each other at the same time in such a way that they are inseparable.<sup>25</sup>

**Homophobia** is the irrational fear of and aversion to homosexuality and to lesbian, gay and bisexual (LGB) people based on prejudice.<sup>26</sup>

**Transphobia** can be described as an irrational fear of gender non-conformity or gender transgression, such as a fear of, or aversion to, masculine women, feminine men, cross-dressers, transgenderists, transsexuals and others who do not fit into existing gender stereotypes about their birth gender. The use of the word ‘phobia’ in this context is not intended to imply that the transphobic person and/or the victim of transphobia are suffering from a disorder.<sup>27</sup>

**Experienced or subjective discrimination** is the subjective feeling of being discriminated against, which may not necessarily entail discrimination in the legal sense.<sup>28</sup>

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<sup>24</sup> Based on: L. Berlant, M. Warner (1998) ‘Sex in Public’, in *Critical Inquiry*, 24, 2. T. Rosenberg (2002) *Queerfeminist Agenda*, Stockholm: Arena. RFSL (2007) ‘Open up Your Workplace: Challenging Homophobia and Hetero-normativity’.

<sup>25</sup> European Commission (2007) ‘Tackling Multiple Discrimination. Practices, policies and laws’, available at [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/pubst/stud/multidis\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/pubst/stud/multidis_en.pdf) (12.09.2008)

<sup>26</sup> This definition draws on the European Parliament resolution on homophobia in Europe (P6\_TA(2006)0018 (PE 368.248))

<sup>27</sup> Hill, D, Willoughby, B. (2005) ‘The Development and Validation of the Genderism and Transphobia Scale’, in *Sex Roles*, Vol. 53, Nr. 7-8,,October 2005, Netherlands: Springer

<sup>28</sup> E. Olli, B. K. Olsen (eds.) (2005) ‘Towards Common Measures for Discrimination: Exploring possibilities for combining existing data for measuring ethnic discrimination’, Danish Institute for Human Rights.

# Methodology

The present analysis relied on background material collected through the following desk and fieldwork research activities, which were followed up by data verification and analysis:

## **Literature review**

The research started with a detailed review of the relevant literature. This facilitated the subsequent development of the guidelines for the fieldwork and the country reports.

## **Country reports**

A sociological report on the current situation was commissioned to independent experts in each Member State providing rich contextual information, official data and information on academic and other research.

## **Electronic stakeholder survey**

LGBT NGOs, National Equality Bodies and public authorities were surveyed through an electronic questionnaire with the purpose of collecting a 'stakeholder assessment' of the social situation. A total of 343 questionnaires were sent out. Of those 84 were fully answered, 132 partly answered (total of 216) and 127 were not answered. The responses provide a valuable insight into the main areas of concern of key stakeholders across the EU.

## **Fieldwork**

To supplement the data collected in the country reports and the e-survey, in depth interviews were carried out across the EU with representatives of LGBT NGOs, public authorities and National Equality Bodies.

## **Consultative roundtables**

Good practices and recommendations for improving conditions for LGBT persons identified during the data collection and the fieldwork were further discussed with NGOs from across the EU at two consultative roundtable meetings in Copenhagen in June 2008, which facilitated knowledge exchange and the development of synergies. The roundtables also served to provide the project team with more information for analysis.

## **Council of Europe**

Another important source of relevant data was the Council of Europe, from which the project team received information on the Council's views on homophobia, transphobia, and discrimination based on sexual orientation and

gender identity and initiatives to combat those problems. The Commissioner for Human Rights, Thomas Hammarberg, was also interviewed.

# PART I: Lesbians, gay men, bisexuals and transsexual/transgender persons in the EU

## Attitudes towards LGBT people

General population attitudes towards LGBT persons are addressed in surveys conducted at European or national level as a barometer of contemporary value orientations. Some studies survey attitudes towards homosexuality or homosexual practices directly, but another way of assessing attitudes towards homosexuals is to use a scale of *social distance*, asking questions such as: 'Who would you like/not like to have as a neighbour?'

### *European survey: homosexuals as neighbours*

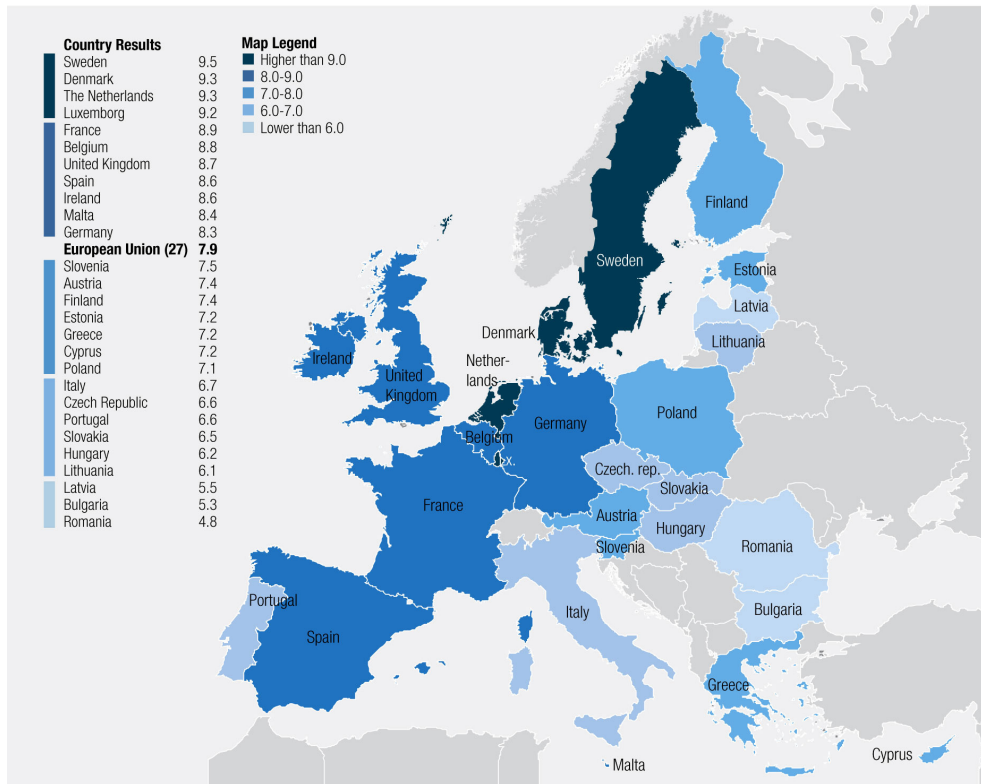
The latest Eurobarometer survey from 2008<sup>29</sup> asked 'how would you personally feel about having a homosexual (gay man or lesbian woman) as a neighbour?' The responses were recorded on a scale ranging from '1' for 'very uncomfortable' to '10' for 'very comfortable'. Divided into five groups, with the darkest colour representing the most comfortable and the lightest representing the least comfortable, these attitudes are illustrated in Figure 1.1:

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<sup>29</sup> Eurobarometer 296 (2008), chapter 9, available at [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_296\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_296_en.pdf) (24.01.2009)

**Figure 1.1: Attitudes towards having a homosexual as a neighbour**

Scale of 1-10. 1 = 'very uncomfortable'; 10 = 'very comfortable'



According to the Eurobarometer, in the EU as a whole, 11 per cent said that they would be uncomfortable having a homosexual as a neighbour (answering 1-3 on the scale), and 67 per cent would be comfortable (answering 7-10 on the scale).

The countries where the highest proportion of respondents would be comfortable having a homosexual neighbour, are the **Netherlands** and **Sweden** (91 per cent) followed by **Denmark**, **Belgium** and **France**.

At the other end of the scale, **Romania** is the country with the highest proportion of respondents being uncomfortable having a homosexual as a neighbour (36 per cent), followed by **Lithuania**, **Latvia**, **Bulgaria** and **Hungary**.

According to these Eurobarometer results, on average, men are more negative than women, older generations more negative than young, less-educated persons more negative than more-educated, and persons with right-wing views more negative than those with left-wing views.

**Awareness-raising campaign.** In Poland the first awareness-raising campaign promoting acceptance of gays and lesbians "Let them see us" was organised in 2003 by the *Campaign Against Homophobia*. Thirty pictures of gay and lesbian couples holding hands were shown in galleries and on billboards in the biggest Polish cities. The campaign sparked a heated debate in the media on LGB issues.<sup>30</sup>

Uncovering attitudes to different groups, such as LGBT, is not measured only by reference to 'having one as neighbour'. Extending a survey of this kind to a more varied set of situations produces a better picture. As an illustration, in **Cyprus**, a study prepared for the Ombudsman Office probed a variety of situations showing, for example, that respondents would be more uncomfortable with homosexuals caring for or teaching their child or being close relatives than with homosexuals being friends or doctors, and less uncomfortable if the homosexual was a colleague or a neighbour.<sup>31</sup>

#### *European surveys: same-sex marriage and adoption*

Attitudes towards same-sex marriages and child adoption provide another indication of the acceptance of LGBT persons in society. The 2006 Eurobarometer notes:

'The survey [...] shows that openness towards homosexuality tends to be quite limited. On average, only 32% of Europeans feel that homosexual couples should be allowed to adopt children throughout Europe. In fact, in 14 of the 25 Member States less than a quarter of the public accepts adoption by homosexual couples. Public opinion tends to be somewhat more tolerant as regards homosexual marriages: 44% of EU citizens agree that such marriages should be allowed throughout Europe. It should be noted that some Member States distinguish themselves from the average result by very high acceptance levels: the Netherlands tops the list with 82% of respondents in favour of homosexual marriages and 69% supporting the idea of adoption by homosexual couples. Opposition is strongest in Greece, Latvia (both 84% and 89%, respectively) and Poland (76% and 89%).'<sup>32</sup>

Attitudes towards homosexuals 'as neighbours' and attitudes towards 'same-sex marriage' in the different Member States, as recorded by the Eurobarometer survey, correlate to a large extent with the level of family rights accessible to LGBT persons. The most positive attitudes tend to be found in Member States with some kind of legal recognition of same-sex partnerships. This could indicate a relationship between public attitudes and partnership recognition. As

<sup>30</sup> See [http://niechnaszobacza.queers.pl/index\\_en.htm](http://niechnaszobacza.queers.pl/index_en.htm) (23.10.2008).

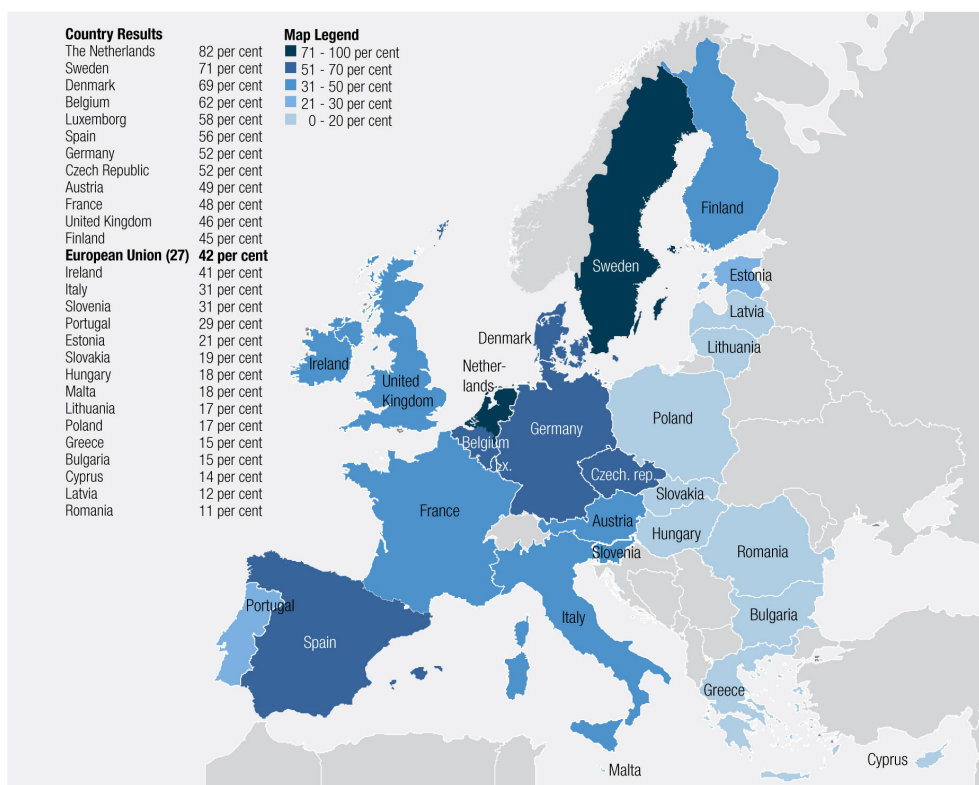
<sup>31</sup> Cyprus College Research Center (2006) 'Attitudes and Perceptions of the Public toward Homosexuality', Cyprus College

<sup>32</sup> Eurobarometer 66 (2006), pp. 43-46, 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), (16.12.2008)

the Ombudsman<sup>33</sup> in **Spain** stated, the introduction of same-sex marriage seems to have improved attitudes towards LGBT persons. Figure 1.2 illustrates public attitudes towards same-sex marriages.

**Figure 1.2: Attitudes towards allowing same-sex marriages<sup>34</sup>**

Support for permitting same-sex marriages expressed as a percentage of those interviewed. Darker shades indicate stronger support for same-sex marriages among the population.



*‘The culture of the country has changed in a definable way as a result of civil partnerships. And here is what I think is really interesting, that the change in the culture and the civilising effect of it has gone far greater than the gay and lesbian community. In other words, by taking a stand on this issue and by removing a piece of prejudice and discrimination, and by enabling people to stand proud as what they are, it has had an impact that I think profoundly affects the way the country thinks about itself’.* Tony Blair Stonewall Equality Dinner 22 March 2007 (Cowan 2007: p.1)<sup>35</sup>

<sup>33</sup> Fieldwork meeting with El Defensor del Pueblo [the Ombudsman], March 13, 2008

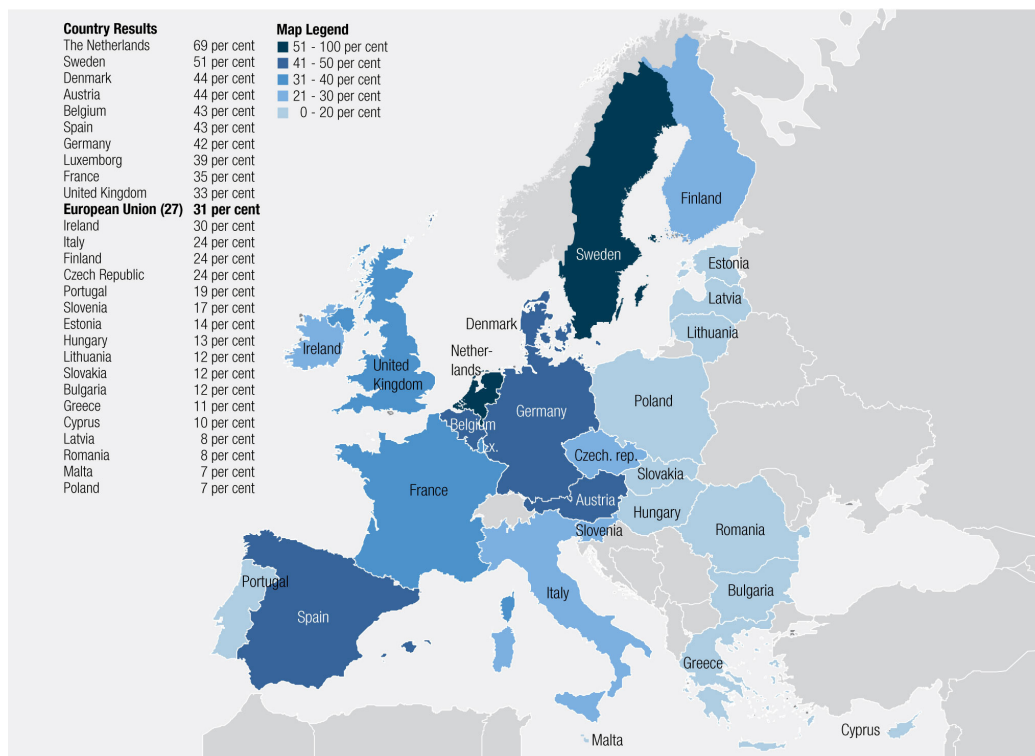
<sup>34</sup> Eurobarometer 66 (2006), p. 43, available at [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_en.pdf), (16.12.2008)

<sup>35</sup> Cowan, K. (2007) ‘British attitudes to lesbian and gay people’ at: [www.stonewall.org.uk](http://www.stonewall.org.uk).

Figure 1.3 illustrates public attitudes towards the permissibility of adoption by same-sex couples.

**Figure 1.3: Attitudes for allowing child adoption for homosexual couples**

Support for permitting adoption by same-sex couples expressed as a percentage of those interviewed. Darker shades indicate stronger support among interviewees for adoption by same-sex couples..



On the question of child adoption the Eurobarometer found that across the EU only an average of 31 per cent of respondents agreed that adoption by same-sex couples should be permitted:

"The proposition that homosexual couples should be authorised to adopt children receives extremely different levels of agreement from one country to another: it ranges from 7% in Poland and Malta to 69% in the Netherlands. Sweden is the only other country where (just) more than half supports the view that 'the adoption of children should be authorised for homosexual couples throughout Europe'".<sup>36</sup>

<sup>36</sup> Eurobarometer 66 (2006), p. 45, 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) (16.12.2008)



### *Other national surveys on attitudes*

Examining other aspects of attitudes towards LGBT people, national surveys indicate a prevalence of negative attitudes toward LGBT persons in various contexts.

In a **Bulgarian** survey,<sup>37</sup> 42 per cent of respondents would not like to have a homosexual as friend or colleague and 47 per cent would not accept it if their child was homosexual. In a **United Kingdom** survey<sup>38</sup> covering Scotland, half of the respondents stated that they would be unhappy about a relative forming a long-term relationship with a transsexual person. In a **Danish** survey,<sup>39</sup> 53 per cent of men aged 15-24 did not think it was acceptable to have sex with someone of the same sex, but only 21 per cent of young women had the same opinion. According to a **German** study,<sup>40</sup> 32 per cent of the respondents thought that the sight of two homosexuals kissing is disgusting. A **Lithuanian** study<sup>41</sup> found that 47 per cent of the respondents considered homosexuality as an illness and believed that homosexuals should be treated medically; 62 per cent would not like to belong to any organisation with homosexual members; 69 per cent did not want homosexuals to work in schools; 50 per cent objected to homosexuals working in the police force. An earlier European Values Study in **Greece** showed a net contrast of attitudes among respondents of different age and with different education level. The majority of respondents (58.6 per cent) found homosexuality not to be “justifiable”, but this is much higher among persons over 50 (84.7 per cent) than for persons under 30 years of age (44.7 per cent) indicating that attitudes may be gradually changing<sup>42</sup>.

Regardless of the differences between the Member States, the surveys indicate that homophobia and dislike of LGBT persons is prevalent. A similar picture arises from the e-survey of stakeholders: thirty per cent considered that ‘a minority’ of the population accepts lesbians or that there is ‘no acceptance’. The figure for gay men is higher at 40 per cent and for bisexuals 38 per cent, while for transgender persons is particularly low at 73 per cent.

These results come as no surprise. But, already in 2000 the Council of Europe's Committee of Ministers had urged for tolerance and action: ‘Homosexuality can

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<sup>37</sup> Sociological Agency Skala (2007) ‘Attitudes toward the minority groups and discriminatory mindsets in the Bulgarian society’, Sociological survey under the project ‘From antidiscrimination to equal opportunities – innovative methods and effective practices of the Commission for Protection Against Discrimination’, Sofia.

<sup>38</sup> C. Bromley, J. Curtice, L. Given (2007) ‘Attitudes to discrimination in Scotland: 2006’, Scottish Social Attitudes Survey, Edinburgh: Scottish Government Social Research.

<sup>39</sup> Sundhedsstyrelsen [The National Board of Health] (2006) Ung2006. De 15-24-årige seksualitet, Copenhagen

<sup>40</sup> Institut für interdisziplinäre Konflikt und Gewaltforschung [IKG] (2006) ‘Indikatoren des Syndroms Gruppenbezogene Menschenfeindlichkeit im Vergleich’, available at <http://www.uni-bielefeld.de/ikg/index.htm> (15.06.2006).

<sup>41</sup> The Market and Opinion Research Centre ‘Vilmorus Ltd.’ (2006) ‘Discrimination against Various Social Groups in Lithuania’, Vilnius

<sup>42</sup> European Values Study (1999) available at [www.jdsurvey.net/web/evs1.htm](http://www.jdsurvey.net/web/evs1.htm) (13.11.2008)

still give rise to powerful cultural reactions in some societies or sectors thereof, but this is not a valid reason for governments or parliaments to remain passive. On the contrary, this fact only underlines the need to promote greater tolerance in matters of sexual orientation.<sup>43</sup>

In January 2005, ILGA **Portugal** launched a media campaign, including TV, radio, press and the web in cooperation with the advertising agency W/Portugal, contributing pro bono work. The campaign included displays of affection between lesbian and gay couples on television and print media in order to enhance the visibility of LGBT persons through positive representations.<sup>44</sup>

The significant contribution of the European Commission to improving public attitudes towards various minority groups, including LGBT persons, should also be highlighted. In particular the designation of 2007 as the European Year of Equal Opportunities and the awareness-raising activities that accompanied it were valuable contributions to attitudinal change. The pan-European truck tour which visited cities across the Member States in 2007 and 2008 constitutes one of many instances of direct contact with the general public to raise awareness of issues relating to discrimination. The European Commission also funded national awareness-raising events across the Member States.<sup>45</sup>

#### *Consequences of negative attitudes*

As the LGBT NGOs that were interviewed during the fieldwork reported, one of the defence strategies employed by LGBT persons to avoid discrimination, is to be 'invisible' in public, at work or in school. As a **Slovenian** study<sup>46</sup>, aptly called *'The unbearable comfort of privacy'* noted: '...gays and lesbians resort to mimicry to adjust to the hetero-normativity of public spaces. They outwardly redefine their partnership and re-contextualise it as "just a friendship". Only in circumstances that appear sufficiently safe, do some allow the expression of intimacies that point to their sexual status. Gays and lesbians are as a rule aware of the environment in general and the hetero-normativity determining this environment.'

These strategies of 'invisibility', however, do not only influence the lives of LGBT persons, but also affect the extent to which indirect forms of discrimination based on sexual orientation can be detected.

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<sup>43</sup> Situation of lesbians and gays in Council of Europe Member States, Parliamentary Assembly Recommendation 1474 (2000), Reply adopted by the Committee of Ministers on 19 September 2001 at the 765th meeting of the Ministers' Deputies.

<sup>44</sup> See <http://www.youtube.com/watch?v=Xtv2OjDV6t0> (17.10.2008)

<sup>45</sup> See European Commission, 'Communicating Equality and Non-Discrimination in the EU', at [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/pubst/broch/thembroch08\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/pubst/broch/thembroch08_en.pdf) (12.01.2009)

<sup>46</sup> R. Kuhar, A. Svab (2005) 'The Unbearable Comfort of Privacy: Everyday Life of Gays and Lesbians', Politike: Ljubljana, p. 95-96, available at: [http://www2.mirovni-institut.si/eng\\_html/publications/pdf/MI\\_gay\\_eng.pdf](http://www2.mirovni-institut.si/eng_html/publications/pdf/MI_gay_eng.pdf) (12.01.2009)

### *Homosexuals as family members*

The family is of pivotal importance to any person, whether a child, teenager or adult for the provision of emotional support. The LGBT NGOs interviewed across the EU confirmed that responses of families are a major issue seriously affecting the well-being of LGBT persons. Research in **Poland**,<sup>47</sup> **Portugal**,<sup>48</sup> **Malta**,<sup>49</sup> **Lithuania**,<sup>50</sup> **United Kingdom**,<sup>51</sup> **Italy**,<sup>52</sup> **Slovenia**,<sup>53</sup> **Latvia**,<sup>54</sup> **Germany**,<sup>55</sup> **Slovakia**,<sup>56</sup> and **France**<sup>57</sup> shows that a significant number of LGBT persons conceal their sexual orientation from relatives to avoid experiencing discrimination within their family. These studies, however, also show that the majority of the respondents who are open about their sexual orientation meet acceptance within the family.

Rejection by the family has emotional consequences, but it can also result in homelessness. A study<sup>58</sup> in the **United Kingdom** showed that 29 per cent of lesbian respondents and 25 per cent of gay male respondents became homeless when they 'came out' to their parents. In **Slovakia**, a study<sup>59</sup> showed that 20 per cent of its LGB respondents were expelled from home when they 'came out'.

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<sup>47</sup> M. Abramowicz (2007) 'Situation of bisexual and homosexual persons in Poland' 2005 and 2006 report', Warsaw: Campaign Against Homophobia & Lamda Warsaw

<sup>48</sup> F.V. Silva, P. Policarpo, T.L. Monteiro (2006) 'Inquérito Nacional sobre Experiências da Homossexualidade em Portugal, Lisboa': Centro de Investigação e Estudos de Sociologia, Instituto Superior Ciências do Trabalho e da Empresa

<sup>49</sup> Malta Gay Rights Movement (2003) 'Sexual Orientation Discrimination in Malta: A Report on Discrimination, Harassment, and Violence against Malta's Gay, Lesbian and Bisexual Community'. Malta: Union Press

<sup>50</sup> A. Zdanevicius (ed.) (2007) 'Nematomi pilieciai: apie homofobija ir homoseksualių žmonių diskriminaciją Lietuvoje' [Invisible Citizens: About Homophobia and Discrimination against Homosexual People in Lithuania], Kaunas: VDU

<sup>51</sup> S. Dick (2008) 'Homophobic hate crime - The Gay British Crime Survey 2008', Stonewall.

<sup>52</sup> C. Saraceno (ed.) (2003) 'Diversi da chi? Gay, lesbiche, transessuali in un'area metropolitana', Milan: DeriveApprodi

<sup>53</sup> R. Kuhar, A. Svab (2005) 'The Unbearable Comfort of Privacy: Everyday Life of Gays and Lesbians', Ljubljana: Politike

<sup>54</sup> A. Locmelis (2002) 'Sexual Orientation Discrimination in Latvia', in: 'Sexual Orientation Discrimination in Lithuania, Latvia and Estonia', Vilnius: The Open Society Institute & Kimeta Society

<sup>55</sup> Senatsverwaltung für Schule, Jugend und Sport, Fachbereich für gleichgeschlechtliche Lebensweisen Berlin [SENSJS] (2001) Sie liebt sie. Er liebt ihn. Eine Studie zur psychosozialen Situation junger Lesben, Schwuler und Bisexueller in Berlin. Berlin: Author.

<sup>56</sup> A. Dacicikova, P. Jójárt, M. Siposova (2002) 'Report on Discrimination of Lesbians, Gay Men and Bisexuals in Slovakia', Bratislava: Documentation and Information Centre.

<sup>57</sup> France, country report

<sup>58</sup> S. Averill (2004) 'How can young people be empowered to achieve justice when they experience homophobic crime?' Thesis, Middlesex University, available at: <http://www.schoolsout.org.uk/research/docs/Partnersper sent20Anper sent20updateper sent20toper sent20acklingper sent20homophobia.pdf> (30.07.2008)

<sup>59</sup> A. Dacicikova, P. Jójárt, M. Siposova (2002) 'Report on Discrimination of Lesbians, Gay Men and Bisexuals in Slovakia', Bratislava: Documentation and Information Centre

Furthermore, **Belgian** research<sup>60</sup> has shown that LGBT persons rely less on family members and more on friends when seeking social support.

### **Conclusions**

Attitudes towards LGBT people vary significantly among the Member States and also depend on the context LGBT people are placed in. The most positive results appear when respondents are asked if they want a homosexual as a neighbour. The most negative results surface when asked if homosexuals should be allowed to adopt children. Attitudes also differ according to age, with young people having a more positive attitude towards LGBT people than older people. Recognition of legal partnership may also be a factor influencing attitudes positively.

LGB persons tend to hide their sexual orientation from their families, and many experience what they perceive as discrimination by their families, sometimes in the form of rejection or even violence.

Negative attitudes towards transgendered people are significantly higher than negative attitudes towards lesbians, gay men and bisexuals.

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<sup>60</sup> A. Dewaele (2007-2008) 'De sociale netwerken van holebi's - Over vriendschap en andere bloedbanden'. Antwerpen University: Faculteit Politieke en Sociale Wetenschappen, Departement Sociologie

## Hate crime and hate speech

This section addresses a number of dimensions related to hate crime and hate speech, including the prevalence of physical assaults on LGBT persons, the character of the assaults and the perpetrators, procedures for reporting incidents of hate crime and police or other authorities' methods for responding to such reports, and attacks on LGBT venues.

In nine EU Member States<sup>61</sup> (**Belgium, Denmark, Spain, France, The Netherlands, Portugal, Romania, Sweden** as well as part of the **United Kingdom** - Northern Ireland), the criminal law contains provisions making it a criminal offence to incite hatred, violence or discrimination on grounds of sexual orientation (hate speech) as well as the law to consider homophobic intent as an aggravating factor in common crime (hate crime).

In four EU Member States (**Germany, Estonia, Ireland, Lithuania**) the criminal law contains provisions making it a criminal offence to incite hatred, violence or discrimination on grounds of sexual orientation (but the law does not consider homophobic intent as an aggravating factor in common crime).

One EU Member State (**Finland**) considers homophobic intent as an aggravating factor in common crime (but has no provisions making it a criminal offence to incite hatred, violence or discrimination on grounds of sexual orientation).

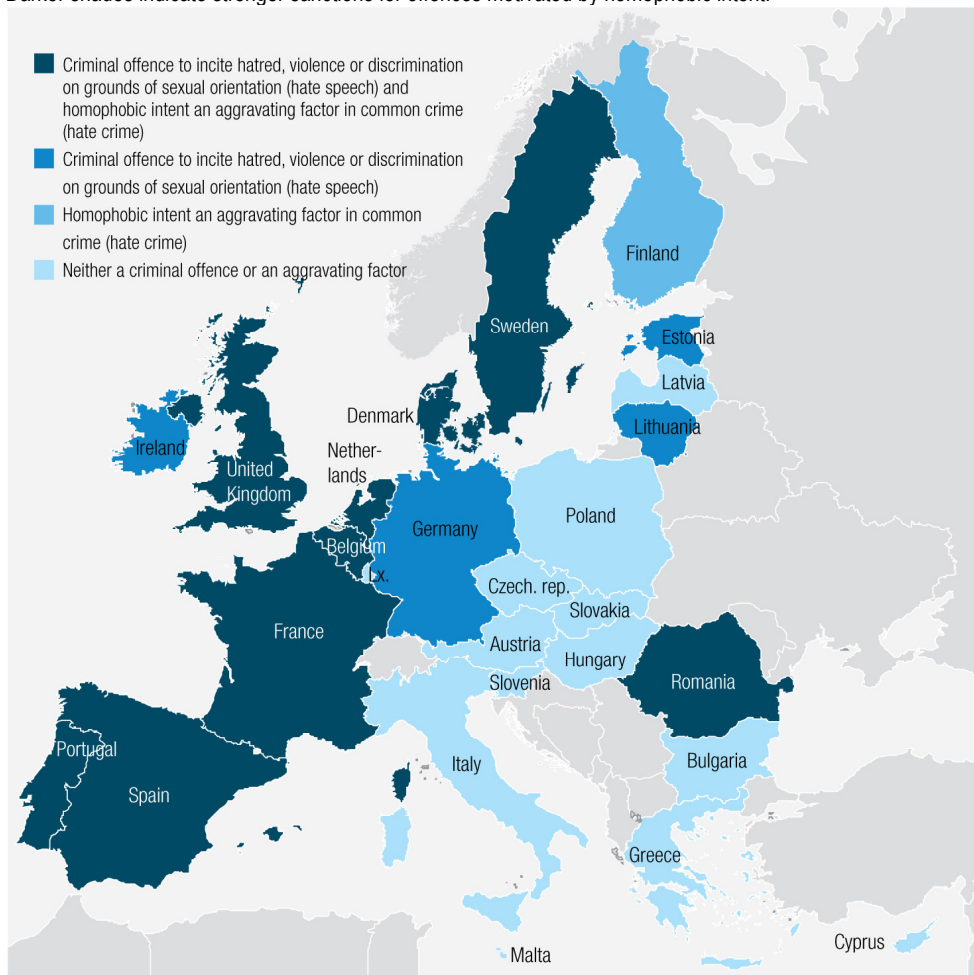
In 13 EU Member States (**Latvia, Luxembourg, Poland, Czech Republic, Slovakia, Austria, Hungary, Slovenia, Italy, Bulgaria, Greece, Cyprus and Malta**) it is neither a criminal offence nor an aggravating factor.

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<sup>61</sup> For more information on legislation see European Union Agency for Fundamental Rights (2008) 'Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States: Part I - Legal Analysis'.

**Figure 1.4: Legislation regarding homophobic hate crime and hate speech**

Darker shades indicate stronger sanctions for offences motivated by homophobic intent.



**Official statistical data regarding hate crime and hate speech**

Official statistical data on police reports and court procedures are scarce. Regarding court cases on hate speech only **Lithuania** has official data. In 2007 a total of 15 criminal court cases were initiated. One resulted in a conviction.<sup>62</sup> Regarding prosecutions on hate crime, only the **United Kingdom** has official data. In 2007 a total of 988 criminal court cases were initiated, of which 759 were convicted.<sup>63</sup> Official data on incidents of hate speech and hate crime

<sup>62</sup> Lithuania, country report

<sup>63</sup> The Crown Prosecution Service (CPS), which keeps data for England and Wales, collects statistical information on homophobic crime in general and does not disaggregate it according to the type of offense committed, e.g. hate speech. When prosecuting cases with a homophobic element, the CPS adopts the following definition for homophobic crime: ‘Any incident which is perceived to be homophobic or transphobic by the victim’. (Email communication with the CPS, 24.01.2008, and with the Justice Department of the Scottish Government, 07.02.2008).

reported to the police are produced in **Sweden** where 723 police reports in 2007 were related to homophobic incidents.<sup>64</sup> In the period 1 January to 30 June 2008 150 homophobic incidents (violence, abuse or harassment) were reported by the police in **the Netherlands**.<sup>65</sup>

The lack of official statistics in other Member States partly results from the fact that hate speech and hate crime offences are either not considered a crime or an aggravating factor, or the collection on complaints do not disaggregate according to the motive (it is thus not possible to distinguish between, for example, racist and homophobic motives in the statistics).

Countries that record a significant number of incidents, for instance the **United Kingdom**,<sup>66</sup> have developed excellent tools for hate crime reporting, e.g. self-report forms and third party reporting sites giving the public the ability to report at locations other than police stations through a partnership of relevant specialist agencies, and can do so without revealing the victim's personal details. Only with the victim's consent will police investigate the crime. So-called 'third party reporting' allows victims to gain confidence and be encouraged to report crime, while agencies can identify appropriate support organisations to best help victims. Improved recording of hate crime draws a more accurate picture, thus enabling police and other partners to respond more effectively through intelligence-led pro-active targeting. In addition, the UK has developed simple and effective operational definitions for reporting homophobic incidents:

- *A homophobic incident is any incident which is perceived to be homophobic by the victim or any other person.*
- *A transphobic incident is any incident which is perceived to be transphobic by the victim or any other person.*

### **Surveys and other data sources**

There is no comparative survey at EU level on hate crime. Nevertheless, studies have been carried out in several Member States, and have universally shown the presence of hate crime and hate incidents – a finding backed by the assessments

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See also: OSCE/ODIHR (2008) 'Hate Crimes in the OSCE Region - Incidents and Responses'. Annual Report for 2007, p. 46; and United Kingdom, country report.

<sup>64</sup> Report 2008:15 from Brottsförebygganderådet, Hatbrott 2007, pp. 81-90, available at [http://www.bra.se/extra/measurepoint/?module\\_instance=4&name=Hatbrott\\_2007\\_webb.pdf&url=/dynamaster/file\\_archive/080716/6141d937f1ed069853de33f15d209d28/Hatbrott%255f207%255fwebb.pdf](http://www.bra.se/extra/measurepoint/?module_instance=4&name=Hatbrott_2007_webb.pdf&url=/dynamaster/file_archive/080716/6141d937f1ed069853de33f15d209d28/Hatbrott%255f207%255fwebb.pdf) (12.12.2008)

<sup>65</sup> Politieacademie (2008) 'Rapportage homofob geweld. Politiegegevens. Periode 1 januari - 1 juli 2008'

<sup>66</sup> Even in the UK it is estimated that 85 per cent of homophobic crimes go unreported, see for example <http://www.barnet.gov.uk/index/community-living/safety/harassment-help/harassment-help-homophobia.htm> (05.02.2009)

of all LGBT NGOs and National Equality Bodies dealing with the issue in each Member State, including the countries where no statistical data is available.<sup>67</sup>

In a **British** study,<sup>68</sup> one third of lesbian and one quarter of gay male respondents reported experiencing a hate crime or incident in the last three years. One in 12 bisexuals reported experiencing a homophobic hate incident in the last three years. In a **Polish** study,<sup>69</sup> 18 per cent of LGB respondents reported experiencing physical violence due to their sexual orientation within the last two years—of those, 42 per cent reported three or more incidents. In a **Danish** Internet survey,<sup>70</sup> 12 per cent of LGBT respondents reported experiencing physical assaults on grounds of their sexual orientation or gender identity at least once, and 39 per cent reported experiencing verbal assaults at least once. In an **Italian** survey from Turin,<sup>71</sup> 51 per cent of male and 33 per cent of female respondents reported experiencing homophobic violence. In a **Slovenian** study, 53 per cent of lesbian and gay respondents reported experiencing violence because of their sexual orientation.<sup>72</sup>

The results above clearly show only the tip of the iceberg, but are indicative of the extent of the problem throughout the EU, and suggest that hate crime and incidents are not limited to the countries where research has been conducted. Furthermore, all the LGBT NGOs visited had knowledge of hate incidents in their own Member State, even when no specific research had been carried out.

In 2007 the European Parliament noted ‘a proliferation of hate speech targeting the lesbian, gay, bisexual and transgender (LGBT) community in a number of European countries’ highlighting the use by public figures of ‘inflammatory or threatening language or hate speech, and the failure by the police to provide adequate protection against violent demonstrations by homophobic groups’. In particular it drew attention to Matteo, a 16-year-old Italian citizen from Turin, who ‘recently committed suicide and left two suicide notes citing as the reason for his suicide the bullying that he suffered because of his sexual orientation;

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<sup>67</sup> No statistical data on hate speech and hate crime were identified in Austria, Bulgaria, Cyprus, Czech Republic, Finland, France, Greece, Hungary, Latvia, Lithuania, Luxembourg, Portugal, Romania or Spain. Data on hate crime against transgender persons is particularly scarce.

<sup>68</sup> Sample of 1,721 lesbian, gay and bisexual adults responded from across Britain in 2008 using an online interview administered to members of YouGov panel of 185,000 individuals. S. Dick (2008) ‘Homophobic Hate Crime - The Gay British Crime Survey 2008’, Stonewall, available at [http://www.stonewall.org.uk/documents/homophobic\\_hate\\_crime\\_final\\_report.pdf](http://www.stonewall.org.uk/documents/homophobic_hate_crime_final_report.pdf) (06.02.2009).

<sup>69</sup> Sample of 1,002 respondents. M. Abramowicz (ed.) (2007) ‘Situation of bisexual and homosexual persons in Poland’, Kampania Przeciw Homofobii & Lambda Warsaw.

<sup>70</sup> Internet survey of 9,473 respondents conducted by the LGBT dating Internet portal boyfriend.dk in collaboration with The Danish Broadcasting Corporation (2007), available at: <http://boyfriend.dk/dr/result.php> (15.01.2008).

<sup>71</sup> Sample of 514 respondents, C. Saraceno (ed.) (2003) ‘Diversi da chi? Gay, lesbiche, transessuali in un'area metropolitana’, Milan: Guerini

<sup>72</sup> A. Švab, R. Kuhar (2005) ‘The Unbearable Comfort of Privacy: Everyday Life of Gays and Lesbians’, Politike: Ljubljana, available at: [http://www2.mirovni-institut.si/eng\\_html/publications/pdf/MI\\_gay\\_eng.pdf](http://www2.mirovni-institut.si/eng_html/publications/pdf/MI_gay_eng.pdf) (22.12.2008)



[the fact that] civil society organisations in the United Kingdom have signalled an increase in instances of homophobic bullying in secondary schools throughout the United Kingdom; [as well as the incident of] a gay man [who] was bludgeoned to death in the Netherlands solely for his sexual orientation and feminine appearance'.<sup>73</sup>

The Council of Europe has expressed similar concern over such hate crime. In 2008 a Council of Europe report drew attention to the fact that:<sup>74</sup> 'In Riga, extremists hurled faeces and eggs at gay activists and their supporters when they were seen were leaving a church service. Some years ago a Swedish hockey player was stabbed to death in Vasteras after he had made known that he was homosexual. In Oporto, Portugal, a group of boys attacked and killed a homeless Brazilian transgender woman and left the body in a water-filled pit.'

#### *Character of assaults*

Studies and surveys from **Belgium,**<sup>75</sup> **Germany,**<sup>76</sup> **the Netherlands,**<sup>77</sup> **Poland,**<sup>78</sup> **Slovenia**<sup>79</sup> **Sweden,**<sup>80</sup> the **United Kingdom,**<sup>81</sup> and other Member States reveal that: in most cases the most common experience is verbal aggression; assaults usually occur in public places; lesbian and bisexual women are more likely than gay or bisexual men to experience assaults in private settings; they are also more likely to experience sexual assaults or threats of sexual assaults; young people are subjected to assaults more than other age groups.

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<sup>73</sup> See European Parliament Resolution, 'Homophobia in Europe', adopted 26 April 2007, P6\_TA(2007)0167 also European Parliament Resolution, 'Homophobia in Europe', adopted 18 January 2006, P6\_TA(2006)0018

<sup>74</sup> T. Hammarberg, the Council of Europe Commissioner for Human Rights (2008) 'Hate Crimes - racism, anti-Semitism, anti-Gypsyism, Islamophobia and homophobia': [http://www.coe.int/t/commissioner/Viewpoints/080721\\_en.asp](http://www.coe.int/t/commissioner/Viewpoints/080721_en.asp) (03.09.2008)

<sup>75</sup> M. Poelman & D. Smits (2007) 'Agressie tegen holebi's in Brussel-Stad', Antwerp: Apeldoorn.

<sup>76</sup> MANEO – 'Das schwule Anti-Gewalt-Projekt in Berlin '(2007) [MANEO - the gay Anti-Violence-Project in Berlin], available at: <http://www.maneo.de/highres/index.html> (14.07.2008)

<sup>77</sup> L. Buijs, J.W. Duyvendak, G. Hekma (2008) 'Als ze maar van me afblijven'. Amsterdam: Universiteit van Amsterdam, Amsterdam School for Social Science Research

<sup>78</sup> M. Abramowicz (ed.) (2007) Situation of bisexual and homosexual persons in Poland, Kampania Przeciw Homofobii & Lambda Warsaw

<sup>79</sup> A. Švab, R. Kuhar (2005) 'The Unbearable Comfort of Privacy: Everyday Life of Gays and Lesbians', Politike: Ljubljana, available at: [http://www2.mirovni-institut.si/eng\\_html/publications/pdf/MI\\_gay\\_eng.pdf](http://www2.mirovni-institut.si/eng_html/publications/pdf/MI_gay_eng.pdf) (14.07.2008)

<sup>80</sup> E. Tiby (1999) 'Hatbrott? Homosexuella kvinnor och mäns berättelser om utsatthet för brott', Stockholms universitet: Kriminologiska institutionen

<sup>81</sup> S. Dick (2008) 'Homophobic hate crime – The Gay British Crime Survey 2008', Stonewall

'A group of young people from my town have harassed me many times to "persuade" me that there is no place for lesbians here. They've assaulted me verbally and physically. Once, I was beaten, too. They threatened that they would rape me to show how good it is to be with a man, because I need a man.' (Female, Poland)<sup>82</sup>

### *Perpetrators*

The studies above find that perpetrators are usually unknown to the victim, although in some cases they are relatives, colleagues or fellow students.<sup>83</sup> Perpetrators are primarily men (and often young men in groups).

On the basis of hate crime incidents reported to a website created by *Landsforeningen for Bøsser og Lesbiske* [The National Organisation for Gays and Lesbians] in **Denmark**, the organisation concluded: "[The reported incidents] indicate that men are the verbal and physical perpetrators. Most often men in groups and most often [ethnic majority] white Danes. [...] The typical story concerning gay men takes place in the public space, in cruising areas or outside gay bars. Lesbians are more often exposed to verbal assaults and often in private settings [including threats of] sexual assault."

Two other issues should be highlighted: firstly, perpetrators from extremist right-wing groups targeting LGBT persons, and secondly, the issue of ethnic minorities as perpetrators.

There are several examples of extreme right-wing groups harassing or attacking LGBT persons and venues, including incidents in **Sweden, Poland, Estonia** and **Italy**. Several interviewees connected the occurrence of hate crime against LGBT persons with phenomena of ultra-nationalism, xenophobia or racism.<sup>84</sup>

Regarding ethnic minorities as perpetrators of LGBT hate crime, despite the paucity of relevant research, public debates often point to views on homosexuality as a marker of difference between ethnic majority and ethnic minority groups,<sup>85</sup> and victim accounts sometimes identify ethnic minorities as perpetrators of anti-LGBT violence. The existing research does not associate other factors such as social class, education, employment status or religious beliefs with ethnicity.

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<sup>82</sup> Quoted in M. Abramowicz (ed.) (2007) 'Situation of bisexual and homosexual persons in Poland', Kampania Przeciw Homofobii & Lambda Warsaw

<sup>83</sup> The relatively frequent occurrence of hate crimes committed by family members and peers distinguish hate crime motivated by sexual orientation or gender identity from other kinds of hate crime motivated by, for example, racism or anti-Semitism.

<sup>84</sup> Fieldwork meetings with SEKÜ (EE), RFSL (SE), Kampania (PO), Arcigay/Arcilesbica (IT).

<sup>85</sup> For example in Denmark and the Netherlands, described in: M.T. Drud-Jensen & S.P. Knudsen (2005) *Ondt i røven. Folk der har ondt i røven over bøsser - bøsser der har ondt i røven over folk*. Copenhagen: Høst & Søn. And P. Mepschen (2008) *Sex and the Other - Homosexuality and Islam in Dutch public discourse*, Master thesis

The **German** MANEO-Study<sup>86</sup> on hate crime against gay and bisexual men in Berlin reported that perpetrators were perceived as having an ethnic minority background in 16 per cent of incidents.<sup>87</sup>

In a **Dutch** report<sup>88</sup> on Amsterdam, young men of Moroccan origin were overrepresented as suspects of anti-gay violence. The report concludes: 'Perpetrators of anti-gay violence are not inspired by religious beliefs. Those perpetrators who are Muslim have only a superficial knowledge of the Koran and rarely go to mosque. The motives of the Moroccan perpetrators are almost the same as those of the indigenous Dutch perpetrators: views and emotions regarding sex and gender. However, Moroccan boys mention anal sex and the visibility of homosexuality as what they regard as the most reprehensible aspects of homosexuality, and not feminine behaviour. Their overrepresentation is due to the street culture of the areas where many Moroccan boys live.'

#### *Reporting hate crime*

In the experience of LGBT NGOs and some public authorities interviewed for this report, few hate crime incidents are reported to the police or other public authorities. Studies also confirm this.<sup>89</sup>

In the **Polish** study referenced above,<sup>90</sup> 85.1 per cent of cases were not reported to the police. According to the **United Kingdom** study,<sup>91</sup> only 23 per cent of victims reported hate incidents to the police, while other sources, as mentioned before, give even lower figures.

**Anonymous reporting of hate crime:** Fieldwork research revealed that in the **Netherlands**, a pilot project has been initiated where hate crimes can be reported anonymously on the Internet so that information can be collected, even if victims don't want to report to the police directly.<sup>92</sup> Similarly, in **Denmark**, the Municipality of Copenhagen established a website for anonymous reporting of hate incidents.<sup>93</sup> In **Slovenia**, the LGBT NGO *Legebitra* has initiated the

<sup>86</sup> Sample contains 23,949 respondents. MANEO - Das schwule Anti-Gewalt-Projekt in Berlin (2007) [MANEO - the gay Anti-Violence-Project in Berlin], available at <http://www.maneo.de/highres/index.html> (14.07.2008).

<sup>87</sup> Der Beauftragte für Integration und Migration in Berlin (2005) Integration und Migration in Berlin, Zahlen - Daten - Fakten). Even though perceived ethnic minority background and official migrant background is not the same, the figures indicate that persons categorized as 'ethnic minority' or 'migrant' are not overrepresented in the hate crime statistics from Berlin.

<sup>88</sup> L.Buijs, J.W.Duyvendak, G.Hekma (2008) 'Als ze maar van me afblijven'. Amsterdam: Universiteit van Amsterdam, Amsterdam School for Social Science Research, p. 128

<sup>89</sup> For example the hate crime studies cited above and fieldwork meetings with Mozaika (Latvia, 12 March 2008), Ministry of Social Affairs (Estonia, 11 March 2008), BGO Gemini (Bulgaria, 30 April 2008), Arcigay/Arcilesbica (Italy, 5 March 2008)

<sup>90</sup> M. Abramowicz (ed.) (2007) 'Situation of bisexual and homosexual persons in Poland', Kampania Przeciw Homofobii & Lambda Warsaw

<sup>91</sup> S. Dick (2008) 'Homophobic hate crime - The Gay British Crime Survey 2008', Stonewall

<sup>92</sup> Fieldwork meeting with the Commission for Equal Treatment (The Netherlands, 1 April)

<sup>93</sup> See [http://www.registrerdiskrimination.kk.dk/?sc\\_lang=en](http://www.registrerdiskrimination.kk.dk/?sc_lang=en) (17.10.2008)

program, *Povej naprej!* (Activate!) to facilitate reporting of hate crimes and incidents of discrimination against LGBT persons by interviewing victims anonymously.<sup>94</sup>

Several factors may contribute to this:

- For some victims, the social stigma and prejudice against LGBT persons results in a decision not to identify themselves as LGBT, and they avoid reporting so as to reduce the risk of ‘outing’ or exposing themselves.
- Some LGBT persons experience hate incidents so often they do not bother reporting them. For those reasons, or due to what is labelled ‘internalised homophobia’, some victims do not recognise hate incidents as crimes or as discrimination, but rather as part of the social circumstances derived from the popular perception of LGBT persons, and thus as ‘part of life’.
- Knowledge of how and where to report can be patchy. In most Member States a lack of police ‘public service’ culture means that there is little effort to inform the public, and especially groups vulnerable to hate crime, about ways to report hate crime. In this case those who experience a hate crime due to their sexual orientation or gender identity may simply not know how and to whom to report it.
- Others may be reluctant to address the police either because they have previously experienced homophobia or fear homophobic reactions from police officers. Victims have reported such reactions from the police as well as unwillingness to file a complaint or being reluctant to believe in the existence of a homophobic motive for the crime.<sup>95</sup>

For example, the LGBT NGOs *OLKE* in **Greece** and *ACCEPT* in **Romania** reported that police officers intimidate and harass individuals in public places known as meeting points for gay men.<sup>96</sup> In an **Estonian** study, 25 per cent of LGB respondents reported experiencing hostile reactions from the police when reporting hate crimes.<sup>97</sup> An example:

‘Did you know that for the simple fact of holding hands and kissing your same sex lover at 11:30 pm in a park you can be spat on, beaten, fined, called “faggot, sissy, and depraved freak”, and some words I am really ashamed of

<sup>94</sup> See [http://www.drustvo-legebitra.si/index.php?option=com\\_content&task=view&id=148&Itemid=0](http://www.drustvo-legebitra.si/index.php?option=com_content&task=view&id=148&Itemid=0) (17.10.2008)

<sup>95</sup> See e.g. ENAR (2006) ‘Shadow Report: Bulgaria 2006’, available at: [http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria\\_2006.pdf](http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria_2006.pdf) (14 .07.2008)

<sup>96</sup> Fieldwork meetings: Greece, 14 April 2008, and Romania, 12 April 2008

<sup>97</sup> Kotter, L. (2002): ‘Sexual Orientation Discrimination in Estonia’ in ‘Sexual Orientation Discrimination in Lithuania, Latvia and Estonia’. Open Society Institute and Kimeta Society.

mentioning, by the police?' (Male, 17, Romania)<sup>98</sup>

**Training and information material:** In France, a 'Victim's Guide' to hate crime and discrimination was developed by a partnership of private enterprises, police unions and gay and lesbian associations. According to fieldwork interviews, the **National Gendarmerie in France** has included since 2006, awareness-raising modules on homosexuality and homophobia in its educational curricula.<sup>99</sup> Fieldwork interviews reveal that the National Equality Body, the *Centre for Equal Opportunities and Opposition to Racism*, in **Belgium** has undertaken a similar police training initiative.<sup>100</sup>

The stakeholders' e-survey had mixed results regarding the efforts of public authorities to confront hate crime against LGBT persons. Fifty three per cent stated that relevant public authorities consider hate crimes as a 'fairly relevant' or 'very relevant' area of concern whereas 30 per cent report that public authorities consider such incidents as having little or no relevance.

The lack of reporting contributes to the difficulties in assessing the extent and character of assaults throughout the EU, as official statistics and case law often do not exist.

Several public authorities stated during fieldwork interviews that administrative tools to report hate crimes are underdeveloped and difficult to use.<sup>101</sup> Interviews with LGBT NGOs, National Equality Bodies and public authorities in most Member States suggest that the police are poorly trained in dealing with hate crime and lack the necessary reporting tools.

**Police registration of hate crimes:** In the spring of 2007 in **Sweden** the Stockholm police started a 'hate crime unit'. Several police authorities improved their reporting procedures by incorporating in their incident recording procedure a 'pop-up-window' that appears on the screen when specific key words, like 'gay' or 'immigrant' are typed in a report; the reporting officer must then complete further information in order to identify the incident, meaning that the victim or the informant should be further probed. Several police authorities have assigned officers with specific responsibility for hate crimes. Additionally,

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<sup>98</sup> UK Gay News (2006) 'Discrimination: Gays Fined for Cuddling in a Park While Straight Couple Ignored for Having Sex', available at <http://ukgaynews.org.uk/Archive/2006july/2901.html> (07.08.2008).

<sup>99</sup> Fieldwork meeting with Inter-LGBT and L'Autre Cercle, (France, 10 March 2008)

<sup>100</sup> Fieldwork meeting with The Centre for Equal Opportunities and Opposition to Racism (Belgium, 3 April)

<sup>101</sup> Fieldwork meetings with Brottsförebygganderådet and Integrations- och Jämställdhetsdepartementet, Enheten för diskrimineringsfrågor (Sweden, 6 March 2008), and Office of National Statistics (UK, 1 April 2008)

up to 20 prosecutors in **Sweden** specialise in dealing with hate crime, one in each jurisdiction.<sup>102</sup>

Regarding court procedures, a Swedish study<sup>103</sup> showed that the percentage of hate incidents brought to trial varies significantly between police jurisdictions, and that the element of hate or homophobia was sometimes not considered in the trial and sentencing, even though it was a motive for the crime committed.

**Policy for prosecution:** The Crown Prosecution Service in the **United Kingdom** has issued a policy for prosecuting cases of Homophobic and Transphobic Hate Crime. The document explains the way in which the Crown Prosecution Service (CPS) deals with cases involving homophobic and transphobic hate crime and states that the CPS is determined to play its part in reducing crimes with a homophobic or transphobic element by bringing offenders to justice.<sup>104</sup>

#### *Attacks on LGBT venues*

There are several accounts of attacks on LGBT venues in a number of Member States - from vandalising premises of LGBT NGOs or community sites to harassment or assaults on LGBT persons at venues.

The vandalism of the premises of a local branch of *Riksförbundet För Seksuellt Likaberättigande* [The Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights], by breaking its windows and throwing incendiary devices, in **Sweden** is just one example.<sup>105</sup> Through information gathered in fieldwork interviews it is also possible to point to the burning of a historic site of the LGBT community in Italy (*The Coming Out*) in Rome in February 2008, and recently, other neo-fascist attacks on various LGBT venues.<sup>106</sup> The Italian LGB NGOs *Arcigay* and *Arcilesbica* believe that violence against LGBT organisations and community sites is on the increase.<sup>107</sup>

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<sup>102</sup> Sweden, country report

<sup>103</sup> E. Tiby (2006) 'En studie av homofoba hatbrott i Sverige', Stockholm: Forum för levande historia.

<sup>104</sup> See [http://www.cps.gov.uk/publications/docs/htc\\_policy.pdf](http://www.cps.gov.uk/publications/docs/htc_policy.pdf) (06.10.2008).

<sup>105</sup> Riksförbundet För Seksuellt Likaberättigande (Nord) [The Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights] Hatbrott! Vad gör jag? Information och råd för homosexuella, bisexuella och transpersoner (Pamphlet without date of publication at [www.rfsl.se/nord](http://www.rfsl.se/nord)).

<sup>106</sup> Fieldwork meeting with Arcigay and Arcilesbica, March 5, 2008. See also: <http://www.arcigay.it/incendio/incendio-al.coming-out-roma>, <http://www.repubblica.it/2006/05/gallerie/cronaca/incendio-coming/1.html>, and <http://www.arcigay.it/dossier-omofobia-italia-2006-2008> (20.07.2008)

<sup>107</sup> Fieldwork meeting with Arcigay and Arcilesbica, March 5, 2008

## Hate speech

The term ‘hate speech’, as used in this section, includes a broader spectrum of verbal acts drawing upon or expressing homophobia and/or transphobia in degrading or disrespectful public discourse.

Based on available data, it is possible to identify at least three types of hate speech as having particular importance in a homophobic context: hate speech by public figures, hate speech by public religious figures and hate speech published, often anonymously, on the Internet.

### *Hate speech by public and religious figures*

Some LGBT NGOs and researchers have monitored statements in the press or elsewhere. In **Latvia** and **Lithuania**, the LGBT NGOs *Mozaika* (Latvia) and The Lithuanian Gay League have identified articulation patterns examining anti-LGBT statements and other homophobic expressions that may not, strictly speaking, all fall under a legal definition of hate speech.<sup>108</sup>

These monitoring projects found that anti-LGBT statements are mainly articulated by conservative politicians and religious (Catholic, Lutheran or Evangelical Christian) public figures. These statements draw mainly upon the theme that LGBT persons and ways of living constitute a threat to society. As *Mozaika* phrases it: ‘it became clear that certain types of arguments were being used over and over again to speak out against lesbians and gays’.<sup>109</sup> Among these are arguments:<sup>110</sup>

- aiming to preserve the ethnic homogeneity and integrity of the nation and the state by excluding or subordinating gays and lesbians;
- drawing upon Christian belief to support the exclusion of gays and lesbians from the ‘moral community’ which is understood as encompassing the entire nation;
- referring to an unspecified morality, often invoking family values to argue for the exclusion or subordination of gays and lesbians.

Additionally, in some statements LGBT persons appear as a ‘western threat’ to the ‘demographic survival’ of the nation from abroad:

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<sup>108</sup> Mozaika (2007) ‘Homophobic Speech in Latvia: Monitoring the Politicians’  
A. Tereskinas (2007) “‘Not Private Enough?’ Homophobic and Injurious Speech in the Lithuanian Media’, Vilnius: Lithuanian Gay League

<sup>109</sup> Mozaika (2007) ‘Homophobic Speech in Latvia: Monitoring the Politicians’, p. 4

<sup>110</sup> Mozaika (2007) ‘Homophobic Speech in Latvia: Monitoring the Politicians’, p. 5

'We must say a clear "no" to all those wise men from the West, who want to suggest that our people undertake voluntary suicide because, as you know, children do not come from homosexualists [sic]' (Latvian MP, in plenary session of the Parliament, 31.05.2006)<sup>111</sup>

Arguments against allowing Pride events also questioned whether sexual orientation is a minority human rights issue or just an 'immoral inclination' thus equating homosexuals to alcoholics and drug addicts.

'Pride marches in Latvia must be seen as unlawful and must not be permitted, because first of all, they are aimed against morality and the family model which exists in our nation and is enshrined in the fundamental law of the state, the Constitution. Second, homosexuality is against the natural order and, therefore, against the laws of God. Third, homosexuals also claim unlawfully to have the rights of a minority. A minority is made up of those who are different from the majority of people because of nationality, language, race, skin colour and other neutral characterisations, but not of moral evaluation. That means that there can be no minority of alcoholics, homosexuals, drug addicts or any other people if the minority is based on immoral inclinations.' (Public letter sent to politicians, signed by a Cardinal and several priests of the Roman Catholic Church in **Latvia**)<sup>112</sup>

It is important to note that examples of derogatory public statements regarding LGBT people, such as the ones mentioned above, are by no means limited to **Latvia**. The information collected through the fieldwork identified examples of occurrences of such statements in **Malta, Italy, Lithuania, Poland, Cyprus, Greece** and **Romania**,<sup>113</sup> usually from conservative politicians or religious figures from the Catholic or the Orthodox Christian denominations. The types of statements and the argumentation used are largely similar with those identified by the *Mozaika* monitoring project. Not surprisingly, the interviews with LGBT NGOs and National Equality Bodies in these countries showed that where homosexuality is a politically strongly contested issue on moral grounds, homophobic hate speech is a more urgent and significant problem, especially when it is used to develop resistance to Pride events, as described in the section on the freedom of assembly.

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<sup>111</sup> Mozaika (2007) 'Homophobic Speech in Latvia: Monitoring the Politicians', p. 31

<sup>112</sup> LETA News agency, May 27, 2008

<sup>113</sup> Fieldwork meetings with Malta Gay Rights Movement (3 March 2008), Arcigay/Arcilesbica (Italy, March 5 2008), Lithuanian Gay League (13 March 2008), Campaign Against Homophobia (17 March 2008), Cypress Gay Liberation Movement (10 April 2008), OLKE (Greece, 14 April 2008), ACCEPT (Romania, 12 April 2008)



Expression of hatred towards LGBT persons is of course not limited to politicians or religious leaders. As an illustration:

- In entertainment: A member of the selection committee of a **German** private television singing contest ('*Deutschland Sucht Den Superstar*' [Germany Seeks the Superstar]) created a stir by calling a participant in the show a 'fag, singing like a pig!'<sup>114</sup>
- In the media: 'The homosexuals should be executed' was a headline in the **Romanian** newspaper *Evenimentul Zilei* on May 11, 2004, in an article on public LGBT events.<sup>115</sup>
- From public figures: In 2005, a well-known **Portuguese** opinion-leader was prosecuted for having publicly declared that homosexuals were sick and comparing them to paedophiles and drug addicts.<sup>116</sup>

#### *Hate speech on the Internet*

An issue of particular concern is the proliferation of homophobic hate speech through the Internet. There is little research on this issue, but fieldwork research shows that it has been raised as an area of serious concern by some LGBT NGOs,<sup>117</sup> National Equality Bodies<sup>118</sup> and studies. One 2006 study<sup>119</sup> noted: 'A quick check on any search engine provides numerous web pages that target their propaganda against immigrants, Jews, Muslims or homosexuals inciting hate and encouraging violence against these groups. '

The study also reported that, for instance, in the **Netherlands**, the Dutch Complaints Bureau had noted a steady increase in such material published in the Dutch Internet space.

Several National Equality Bodies and LGBT NGOs have also noted a significant number of hateful commentaries against LGBT people published on the Internet. As in other contexts, several anti-LGBT networks use the Internet for communication, networking and mobilisation. Examples include the **Latvian** NoPride Association or the **Portuguese** *Partido Nacional Renovador* announcing a demonstration against 'the gay and paedophile lobby' on a

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<sup>114</sup> In German: 'Vollschwuchtel, singt wie ein Schwein' (aired on RTL, 2008), quoted in Germany, country report

<sup>115</sup> Romania, country report.

<sup>116</sup> J.E.F. Gouveia (2005) 'Qualquer dia a pedofilia vai acabar por ser legalizada', in *O Independente*, 18 February 2005

<sup>117</sup> Fieldwork meeting with for example SEKÛ (Estonia, 10 March 2008)

<sup>118</sup> Fieldwork meeting with for example the Equal Opportunities Ombudsperson (Lithuania, 14 March 2008)

<sup>119</sup> M. Zarrehparvar (2006) 'A Nondiscriminatory Information Society', in R.F. Jørgensen *Human Rights in the Global Information Society*, London: The MIT Press, p. 226

nationalist blog in 2005. An extremist right-wing webpage in **Sweden** was reported in 2006 for inciting hatred against homosexuals.<sup>120</sup>

The Office of the Equal Opportunities Ombudsperson in **Lithuania** has carried out ex officio investigations and started case proceedings against hate speech on websites. However, information gathered during interviews reveals that such cases are often difficult to bring to trial as they require considerable resources and determination to identify the actual authors responsible for the comments.<sup>121</sup>

## Conclusions

Hate crime against LGBT persons is a prevalent phenomenon that has an impact on gay men, lesbians, bisexual men and women and transgender persons in various ways.

Lack of reporting of incidents to police or other authorities - explained by the reluctance of LGBT victims themselves to report incidents, or by neglect on the part of police authorities - is a compounding factor of the problem.

Tools for reporting incidents to the authorities are underdeveloped, although underreporting of hate crime can seriously hamper the ability of the authorities to fight against it effectively.

There is little knowledge or research on the extent, character, perpetrators or victims of hate crime across the EU.

Attacks on LGBT venues are a problem in some Member States. LGBT NGO premises have been vandalised, and other meeting places have been burnt down or the clientele seriously harassed or assaulted. In this study incidents have been identified in **Italy** and **Sweden**.

Hate speech by public figures is a particularly worrying phenomenon, as it affects public opinion, negatively fuelling intolerance. In public anti-LGBT statements, LGBT persons are often depicted as unnatural, diseased, deviant, linked to crime, immoral or socially destabilising.

The Internet is a particular area of concern. The Internet is used to incite hatred and the perpetrators are not easily found or prosecuted.

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<sup>120</sup> Brottsförebyggande rådet (the Swedish National Council for Crime Prevention), 2008 Hatbrott 2007 - En sammanställning av anmälningar med främlingsfientliga, islamofobiska, antisemitiska och homofobiska motiv

<sup>121</sup> Fieldwork meeting with the Equal Opportunities Ombudsperson (Lithuania, 14 March 2008)

## Freedom of assembly

This section addresses the situation concerning LGBT public demonstrations and events, most notably the Pride celebrations, and the issue of access to and availability of premises as venues for LGBT-related activities.

### **Pride parades and other LGBT public demonstrations and events**

Gay Pride is a tradition dating back to June 1969, when LGBT persons in New York protested in the streets for several days against persistent police harassment of LGBT individuals and venues. The following year, the uprising was commemorated by demonstrations in several American cities, and since then annual demonstrations against homophobia and for LGBT rights have spread around the world. These 'Pride' demonstrations, which in many Member States have taken the character of a festive occasion, have additionally a very important community-building and empowering function for LGBT persons and groups. Through interviews it was made apparent that annual events or demonstrations are organised by local LGBT NGOs in almost every EU Member State, and mostly take place without any problems regarding police or local authority permissions and in some cases they are actually organised in cooperation with local authorities.<sup>122</sup>

Demonstrations are organised under various headings, such as Diversity March, Rainbow Parade, Equality Parade or Christopher Street Day with various slogans, goals and types of expression. In this regard the participation of the EU itself in such celebrations is taken as a sign of support for diversity in sexual orientation. Such was the case in the 2005 Amsterdam Canal Parade where a 'For Diversity. Against Discrimination' boat participated as part of the European Commission's campaign on non-discrimination.<sup>123</sup> In recent years, however, some events have attracted considerable negative attention in various EU Member States, and controversy over certain Pride celebrations have become indicative of the centrality of homosexuality as a political issue.

There are several concerns related to some Member States' reactions to Pride events in recent years: the failure of some authorities to guarantee the right to assemble for LGBT persons, the failure to guarantee LGBT persons protection from counter-demonstrators and the actual use of public LGBT demonstrations by political or religious figures to encourage anti-LGBT attitudes and actions.

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<sup>122</sup> Information collected during the fieldwork

<sup>123</sup> See <http://www.stop-discrimination.info/31.0.html> (12.01.2009)

## Bans

In recent years there have been instances of municipal authorities prohibiting, at least initially, peaceful demonstrations and rallies by groups advocating LGBT rights:

**Lithuania:** In 2007 municipal authorities in Vilnius denied authorisation for public LGBT events on two occasions. The organisers complained in the second instance, but the courts rejected the complaint.<sup>124</sup>

**Latvia:** According to information gathered during interviews, in 2005 and 2006 municipal authorities banned the Pride Parade in Riga.<sup>125</sup>

**Bulgaria:** In 2005 the mayor of the city of Varna banned the opening of a *Pink Point* information booth. The organisers filed a complaint with the Commission for Protection Against Discrimination, and Varna Municipality was found guilty of indirect discrimination. Due to appeal proceedings the case is still pending.<sup>126</sup>

**Romania:** In 2005 municipal authorities banned a Diversity March in Bucharest.<sup>127</sup>

**Poland:** In 2004 and 2005 LGBT Equality Marches were banned by municipal authorities in Warsaw. In 2005 a similar march was banned in the city of Poznan.<sup>128</sup>

Reasons given for the bans include participant safety, the violation of public morals and the preservation of public order. It is important to note, however, that some of the bans and other complicating procedures of restriction (for example in Bucharest, Warsaw and Riga) have been changed after advocacy from LGBT NGOs, international pressure, court decisions, opinions from National Equality Bodies or interventions from ministers.<sup>129</sup>

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<sup>124</sup> E. Ziobiene (2008) 'Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation', Report on Lithuania, FRALEX Legal Report. Also: Fieldwork meetings with Lithuanian Gay League (Lithuania, 13 March 2008) and The Equal Opportunities Ombudsperson (Lithuania 14 March 2008)

<sup>125</sup> Fieldwork meetings in Latvia: Tiesībsarga birojs [the Ombudsman's Office] (12 March 2008) and the LGBT NGO Mozaika (12 March 2008)

<sup>126</sup> S. Kukova (2008) 'Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation', Report on Bulgaria, FRALEX Legal Country Report. Also: Fieldwork meeting with the LGBT NGO BGO Gemini, April 28, 2008, and the Commission for Protection Against Discrimination, April 29, 2008

<sup>127</sup> Romania, country report and fieldwork meeting with the LGBT NGO ACCEPT (April 7 2008)

<sup>128</sup> M. Abramovicz (ed.) (2007) 'The Situation of Bisexual and Homosexual Persons in Poland'; 2005 and 2006 report, Warsaw: Campaign Against Homophobia and Lambda Warsaw Association

<sup>129</sup> Romania, country report. M. Abramovicz (ed.) (2007) 'The Situation of Bisexual and Homosexual Persons in Poland'; 2005 and 2006 report, 'Campaign Against Homophobia and

In the case of *Baczowski and Others v. Poland*, Application no. 1543/06, Judgment of 3 May 2007, the European Court of Human Rights ruled that the bans of Equality Marches and assemblies in Warsaw in 2005 was a violation of the Articles 11, 13 and 14 of the European Convention on Human Rights.<sup>130</sup>

### Administrative impediments

Interviews revealed that administrative impediments were used in **Estonia** in 2007, with local police reluctant to cooperate with Pride organisers and requiring them to hire a private security company.<sup>131</sup> The organisers submitted a complaint to the Chancellor of Justice. The Chancellor established that the *Põhja Politseiprefektuur* [Northern Police Prefecture] had not followed the standards of good governance when refusing to cooperate with the parade organisers.<sup>132</sup>

The Chancellor of Justice further pointed out that, although the authorities seem to be aware of their negative obligations, i.e. not to disturb the parade, they were not aware of their positive obligation to provide an environment where freedom of assembly and related rights can be enjoyed (for example, by protecting demonstrators from counter-protesters).<sup>133</sup>

According to interviewees, similar impediments occurred in relation to a Diversity March in **Romania** in 2008, with local police requiring the organisers to provide a traffic regulation plan.<sup>134</sup>

### Counter-reactions

The reactions against LGBT demonstrations such as Pride events are not limited to public authorities. In the summer of 2008, violent attacks on Pride marches in the capitals of the **Czech Republic**, **Hungary** and **Bulgaria** were reported in the international news media. Violent attacks on demonstrations have occurred

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Lambda Warsaw Association', Warsaw. Fieldwork meetings in Latvia: Tiesībsarga birojs [the Ombudsman's Office] (12 March 2008) and the LGBT NGO Mozaika (12 March 2008)

<sup>130</sup> See [http://www.icj.org/IMG/European\\_Compilation-web.pdf](http://www.icj.org/IMG/European_Compilation-web.pdf) (26.11.2008)

<sup>131</sup> Fieldwork meeting with SEKÜ and Diversity (Estonia, 10 March 2008)

<sup>132</sup> Estonia/Õiguskantsleri kantselei (09.2007) 'Soovitus õiguspärasuse ja hea halduse tava järgimiseks' ['Recommendation to observe legality and good governance'], letter to politseiprefekt [Police Prefect] Raivo Kütt, p. 13

<sup>133</sup> Estonia/Õiguskantsleri kantselei (09.2007) 'Soovitus õiguspärasuse ja hea halduse tava järgimiseks' ['Recommendation to observe legality and good governance'], letter to politseiprefekt [Police Prefect] Raivo Kütt, p. 13

<sup>134</sup> Fieldwork meeting with ACCEPT (Romania, 7 April 2008)

in **Sweden, Poland, Latvia, Estonia, Czech Republic, Hungary, Romania and Bulgaria** in recent years.<sup>135</sup>

'The neo-Nazis that beat me up at the Pride parade in 2003 hit the jackpot because I'm both a "blatte" [derogatory term for a non-white Swede, or people of colour, for example of Arab or Latino descent] and gay. Today I feel that it's more important than ever to walk in the Pride parade. There are so many gays, dykes and transgendered people who don't dare walk. Get out in the streets, show yourselves!'<sup>136</sup> (Male, **Sweden**)

According to LGBT NGOs and National Equality Bodies in the above-mentioned countries, counter-demonstrations are typically organised by a number of groups, sometimes operating in strategic alliances, and can include: fascist and neo-Nazi groups, ultra-nationalist groups and/or conservative Orthodox, Catholic or evangelical Christian groups.

In several cases the counter-demonstration mobilisation reaches beyond the members of such groups, resulting in large public demonstrations calling for, for example, 'the death of sodomites'<sup>137</sup> and with slogans such as 'Gay Pride = Aids Pride', 'Stop the Western decadence' or 'Gays are like Jews—they must die'.<sup>138</sup>

As an example of the challenges faced by the organisers of public LGBT events, a 2005 Polish survey found that 78 per cent of respondents opposed the right of LGBT organisations to demonstrate in public.<sup>139</sup>

According to the results of fieldwork research, beyond attacks on parades or marches, several LGBT NGOs report security problems for the participants before and especially after Pride events.<sup>140</sup> The police have reportedly been unable or unwilling to protect the participants from attacks.<sup>141</sup>

There are numerous examples of politicians refusing to support Pride events, but when such politicians are directly responsible for equal treatment the political message is particularly strong. In May 2008 the newly appointed Minister of Equal Opportunities in **Italy** refused to support the Gay Pride in

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<sup>135</sup> Information from country reports

<sup>136</sup> RFSL (2005) 'Belonging', available at [http://www.rfsl.se/public/rfsl\\_belonging\\_2.pdf](http://www.rfsl.se/public/rfsl_belonging_2.pdf) (06.02.2009)

<sup>137</sup> Romania, country report

<sup>138</sup> S.P. Knudsen, 'Gay Pride er vestlig decadence' in Dagbladet Information, 02.06.2008, available at: <http://www.information.dk/160136> (21.07.2008)

<sup>139</sup> Public Opinion Research Center (2005) 'Acceptance of rights for gay and lesbian persons and social distance towards them', available at: [http://www.cbos.pl/SPISKOM.POL/2005/K\\_127-05.PDF](http://www.cbos.pl/SPISKOM.POL/2005/K_127-05.PDF) (21.07.2008)

<sup>140</sup> Fieldwork meetings with for example RFSL (Sweden, 5 March 2008), Háttér Társaság a Melegekért [Háttér Support Society] (Hungary, 17 April 2008), Mozaika (Latvia, 12 March 2008)

<sup>141</sup> Fieldwork meetings with for example ACCEPT (Romania, 7 April 2008), Háttér Társaság a Melegekért [Háttér Support Society] (Hungary, 17 April 2008), Campaign Against Homophobia (Poland, 17 March 2008)

Rome on the grounds that homosexuals are no longer discriminated against in Italy. She disagreed with the perceived aim of the Gay Pride organisers to give homosexual unions the same legitimacy as heterosexual marriage.

Taking into consideration the treatment from authorities, the character of counter-demonstrations and the public debate that accompanies LGBT demonstrations, it is clear that extremists are not the only actors endangering the right to freedom of assembly for LGBT demonstrations. There is a considerable overlap between Member States where the authorities have denied or been reluctant to grant permission to LGBT demonstrations and the occurrence of violent counter-demonstrations.

### **Bans, impediments and attacks on LGBT demonstrations**

Within the last five years, bans, administrative impediments and organised attacks on public LGBT demonstrations have occurred in **Bulgaria, Estonia, Latvia, Poland** and **Romania**. Organised attacks (but no bans or impediments) have occurred in the **Czech Republic, Hungary, Italy** and **Sweden**.

No problems in this respect have been reported in **Portugal, Spain, France, Belgium, Germany, Austria, Slovakia, Slovenia, Malta, Ireland, United Kingdom, Luxembourg, the Netherlands, Greece, Denmark** or **Finland**.

Fieldwork research allows us to note the case of **Lithuania**, where in spite of several attempts to organise public LGBT events, at the time of writing none have been held, due to bans from local authorities.<sup>142</sup> In **Cyprus**, public LGBT events were never organised.<sup>143</sup>

### **Availability of premises**

LGBT persons and organisations also face problems in some Member States in regard to finding premises for political or cultural activities. In all Member States except **Cyprus**, LGBT NGOs operate in their own offices or share offices with other NGOs. Acquiring such premises to organise political, social or cultural activities is sometimes problematic. According to fieldwork research, for example, in **Lithuania**, an NGO for disabled persons refused to rent office space to the Lithuanian Gay League (LGL), on the grounds that they did not want LGBT persons on their premises.<sup>144</sup>

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<sup>142</sup> Fieldwork meetings with Lithuanian Gay League (Lithuania, 13 March 2008) and The Equal Opportunities Ombudsperson (Lithuania, 14 March 2008)

<sup>143</sup> Fieldwork meeting with Cypriot Gay Liberation Movement (Cyprus, 10 April 2008)

<sup>144</sup> Fieldwork meetings with Lithuanian Gay League (Lithuania, 13 March 2008) and The Equal Opportunities Ombudsperson (Lithuania, 14 March 2008)

The celebration of the 10th anniversary of the LGBT movement in **Slovenia** was supposed to take place at the Ljubljana Castle. The leaseholder of the castle cancelled the event when he found out that it was LGBT-related.<sup>145</sup>

In **Italy** in 2005 lesbian organisations in Milan protested against the Province of Milan for denying access to a venue for an international seminar on lesbian issues a few days before the event. LGBT organisations were barred from taking part in a governmental conference on the family organised by the Ministry of the Family in May 2007. Furthermore, many theatres, cinemas and other sites used for public debates in Italy are owned by the Catholic Church, and these sites have denied use for events concerning LGBT rights.<sup>146</sup>

## **Conclusions**

In most Member States LGBT persons can freely exercise their right to freedom of assembly. In recent years, however, bans or administrative impediments blocked the organisation of peaceful, public LGBT demonstrations in some Member States (**Estonia, Latvia, Lithuania, Poland, Romania, and Bulgaria**). However, with the exception of **Lithuania**, LGBT NGOs subsequently succeeded to organise their events in those Member States.

Also, in some Member States, public authorities have not been able, or willing, to ensure the safety of participants in public LGBT demonstrations from attacks from extreme right-wing, nationalist, conservative and/or religious counter-demonstrations. Within the last five years such attacks have occurred in **Sweden, Estonia, Latvia, Poland, Czech Republic, Hungary, Italy, Romania, and Bulgaria**.

According to information gathered in interviews, LGBT NGOs also reported that finding premises for LGBT activities can be a problem in some Member States.<sup>147</sup>

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<sup>145</sup> Slovenia, country report

<sup>146</sup> Italy, country report; and fieldwork meeting with Arcigay and Arcilesbica, March 5, 2008

<sup>147</sup> Information from fieldwork interviews in Italy, Lithuania and Slovenia



## The labour market

This section examines a variety of issues regarding discrimination on grounds of sexual orientation in employment, namely the invisibility of LGBT persons, how LGBT persons access their rights in the labour market, evidence of the level of experienced discrimination and homophobia in the workplace, the prevalence of discrimination in the labour market, and employers' attitudes and responsibilities towards LGBT persons.

### Openness versus invisibility of LGBT persons

In all Member States, LGBT NGOs interviewed in the field suggested that many LGB people are not visible in the labour market. This finding was supported in interviews with National Equality Bodies and public authorities in all 27 Member States.<sup>148</sup> As the Commission has noted, 'the group subject to discrimination is hardly identified in the public statistics and does not always wish to be... We were told that discrimination based on sexual orientation occurred once a person had been hired and once the information on the person's sexuality had been revealed, whether willingly or not.'<sup>149</sup>

According to an ILGA-Europe report<sup>150</sup>, 42 per cent of LGB respondents are not 'out' in their workplace. Sixty-six per cent name fear of reprisals as a factor in their choice to remain hidden.

A **Swedish** survey<sup>151</sup> conducted by the *Arbetslivsinstitutet* [The National Institute for Working Life], showed that 50 per cent of LGB respondents were not open at work. Forty per cent of these avoided socialising due to fear of being 'revealed'.

A **German** survey<sup>152</sup> of 2,230 gay and lesbian employees showed a similar pattern: 52 per cent of gays and lesbians either didn't reveal their sexual orientation to their colleagues or revealed it only to a few. Disclosure to supervisors or executives was much lower (65.1 per cent did not reveal or revealed only to a few supervisors or executives). In specific work sectors, for example the military and the church, disclosure is much lower than average.

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<sup>148</sup> Fieldwork meetings with LGBT NGOs, National Equality Bodies and public authorities in all the EU Member States, March-May 2008

<sup>149</sup> European Commission, 'The Fight against Discrimination and the Promotion of Equality. How to Measure Progress Done', p. 62 available at [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/pubst/stud/measprog08\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/pubst/stud/measprog08_en.pdf) (16.12.2008)

<sup>150</sup> S. Quinn and E. Paradis (2007) 'Going Beyond the Law: promoting equality in employment', ILGA-Europe

<sup>151</sup> Arbetslivsinstitutet (2003) 'Arbetsvillkor och utsatthet', Stockholm

<sup>152</sup> D. Frohn (2007) "'Out im Office?!' Sexuelle Identität, (Anti-)Diskriminierung und Diversity am Arbeitsplatz'. Köln: Schwules Netzwerk NRW e.V. (ed.) funded by Ministry for Intergenerational Affairs, Family, Women & Integration of North Rhine-Westphalia

A **Finnish** study<sup>153</sup> indicated that LGB employees have a special position, compared to other minorities, in the way that openness influences their working life. Insecurity about employment was cited as one of the main drivers of secrecy at the workplace. According to another Finnish study<sup>154</sup>, it is common for LGBT persons to devise strategies to avoid revealing their LGB status, for example changing the subject or walking away from a workplace conversation.

I've often thought that afterwards they'd,... that if we have young girls as patients, they'd probably never let me take care of them again, I mean I'd probably never be made a responsible nurse or anything. That they'd probably think I was a paedophile or something. That's how I'd feel, like, God if [they] found out now.'<sup>155</sup> (Female, 31, Finland)

As a representative from the **Swedish** Federation for Lesbian, Gay, Bisexual and Transgender Rights (RFSL) noted: 'You might feel that you have to be vague in your answers, and eventually you become this grey person in comparison to the others. You definitely don't become a member of the team this way, so the social aspect of your work is a flop. And after all, we spend one-third of our lives at work, so being part of the team is very important.'<sup>156</sup>

Research suggests that such constant navigation in one's life at the workplace has consequences. A **Swedish** study<sup>157</sup> showed that health risks are associated with being closeted at work, and a **United Kingdom** study<sup>158</sup> demonstrated that LGB persons believe they are more productive at work if they are open.

### Accessing rights in the labour market

The Employment Equality Directive<sup>159</sup> prohibits both direct and indirect discrimination, as well as harassment, on grounds of sexual orientation in both the private and public sectors in work and employment. This prohibition applies in relation to conditions for access to employment, to self-employment or to occupation, access to vocational guidance or vocational training, employment

<sup>153</sup> J. Lehtonen and K. Mustola eds. (2004) "Straight people don't tell, do they...?" Negotiating the boundaries of sexuality and gender at work', Research Reports 2b/04, Ministry of Labour

<sup>154</sup> M. Kaskissari (2004) 'Young Lesbian and Bisexual Women and their coping at work', in J.

Lehtonen, K. Mustola eds. (2004) "Straight people don't tell, do they...?" Negotiating the boundaries of sexuality and gender at work', Research Reports 2b/04, Ministry of Labour

<sup>155</sup> J. Lehtonen and K. Mustola eds. (2004) "Straight people don't tell, do they...?" Negotiating the boundaries of sexuality and gender at work', Research Reports 2b/04. Ministry of Labour

<sup>156</sup> RFSL (2007) 'Open up your Workplace: Challenging Homophobia and Hetero-Normativity', p. 19. Stockholm

<sup>157</sup> Arbetslivsinstitutet (2003) 'Arbetsvillkor och utsatthet', available at [http://www.rfsl.se/public/hobi\\_almedalen2003.pdf](http://www.rfsl.se/public/hobi_almedalen2003.pdf) (6.2.2009)

<sup>158</sup> R. Hunt and S. Dick (2008) 'Serves You Right. Lesbian and gay people's expectations of discrimination' Stonewall

<sup>159</sup> Council Directive 2000/78/ (27.11.2000)

and working conditions, and membership of, and involvement in, organisations of workers or employers. The directive was to be implemented by most EU Member States by 2 December 2003, subject to exceptions relating to age and disability discrimination. Yet implementation has varied across the Member States.<sup>160</sup>

In the interviews with National Equality Bodies and LGBT NGOs the question of how LGBT persons access their rights and seek redress for discriminatory treatment proved to be an issue in all 27 Member States.

If an LGBT person is subject to discrimination, it is imperative that they have access to complaint mechanisms. In this respect the presence of a National Equality Body dealing with complaints on grounds of sexual orientation is pivotal for LGBT persons' possibilities of accessing the right to non-discrimination. However, in many Member States such a body simply does not exist.

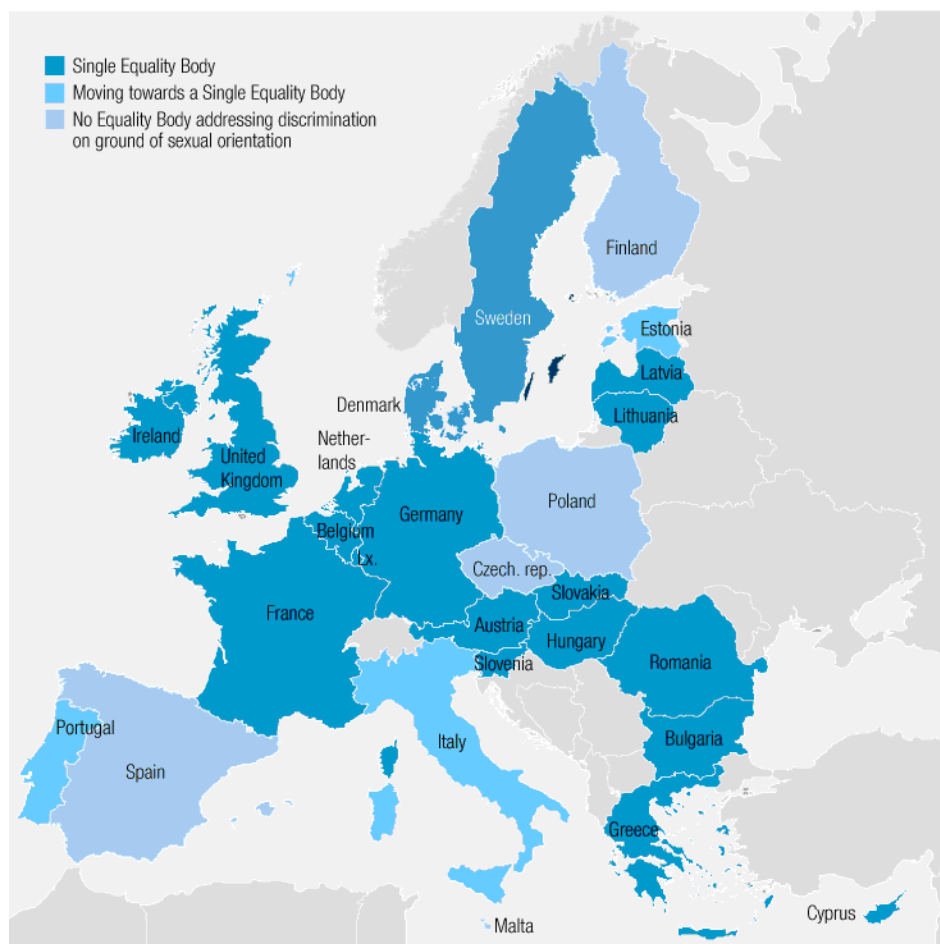
There is a general convergence towards the model of a single Equality Body competent to deal with all discrimination grounds. Such model is already in place in 18 Member States (**Belgium, Bulgaria, Denmark, Germany, Greece, France, Ireland, Cyprus, Latvia**, Lithuania, **Luxembourg, Hungary, the Netherlands, Austria, Romania**, Slovenia, **Slovakia** and the **United Kingdom**). In addition, while nine Member States do not, at the time of writing, have Equality Bodies competent to address discrimination on grounds of sexual orientation, three States are moving in this direction (**Estonia, Italy** and **Portugal**).

Figure 1.5 illustrates where National Equality Bodies cover discrimination on grounds of sexual orientation in the 27 Member States:

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<sup>160</sup> European Union Agency for Fundamental Rights (2008) 'Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States: Part 1 – Legal Analysis', pp. 36-52.

**Figure 1.5: National Equality Bodies**



Only **Sweden** has had a body specifically tasked to deal with discrimination on grounds of sexual orientation, namely *HomO*, one of four Equality Ombudspersons. But since 1 January 2009 the Ombudsman against Discrimination on grounds of Sexual Orientation and the other Ombudsmen against discrimination have been merged into the Swedish Equality Ombudsman. The new Ombudsman will base its activities on the new Discrimination Act that will replace the existing seven pieces of legislation on discrimination.<sup>161</sup> In sum, within the next year or two there will probably be 22 Member States with a single Equality Body competent to address all grounds of discrimination.

<sup>161</sup> The Equality Ombudsman shall ensure that discrimination on grounds of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age does not occur in any area of society. The Ombudsman shall further promote equal rights and opportunities, supervise compliance with the Discrimination Act, handle individual complaints and promote equality through the provision of advice and education.  
<http://www.homo.se/o.o.i.s/1210> (23.10.2008)

Nine Member States do not have an Equality Body competent to address discrimination on grounds of sexual orientation (**Czech Republic, Denmark, Estonia, Spain, Italy, Malta, Poland, Portugal, and Finland**). In five of these, an Ombudsperson institution might be competent to receive complaints about discrimination on grounds of sexual orientation (**Czech Republic, Estonia, Spain, Poland, and Finland**). These types of Ombuds institutions, however, do not dispose of the range of powers envisaged by the Racial Equality Directive for Equality Bodies.

### Data on discrimination

There are few official statistical data on discrimination complaints. Ten Member States (**Austria, Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, the Netherlands, Romania and Sweden**) compile statistical complaints data. The following table illustrates the total number of complaints in each country, along with the total number of findings of discrimination:<sup>162</sup>

<b>Country</b>	Total <u>number of complaints</u> of discrimination on the ground of sexual orientation - equality body, tribunals, courts etc.(2007) <sup>163</sup>	Total <u>number of findings</u> of discrimination confirmed in 2007 by equality body, tribunals, courts etc. (2007) <sup>164</sup>
<b>Austria</b>	45	0
<b>Czech Republic</b>	1	1
<b>Cyprus</b>	1	Decision pending
<b>Estonia</b>	1	0
<b>Hungary</b>	2	0
<b>Latvia</b>	12	1
<b>Lithuania</b>	18	1
<b>The Netherlands</b>	6	3
<b>Romania</b>	7	1
<b>Sweden</b>	62	6 <sup>165</sup>

Interviews with National Equality Bodies and LGBT NGOs in all 27 Member States highlighted the fact that despite the implementation of EU legislation and

<sup>162</sup> Information from FRALEX country legal reports; information for Sweden from HomO

<sup>163</sup> The complaints cover all social areas of discrimination (employment, education, housing, goods and services etc.)

<sup>164</sup> The number of complaints in 2007 does not necessarily correspond with findings from 2007 as some decisions are not reached the same year as the complaint was made.

<sup>165</sup> It is important to note that the 6 cases only reflects those cases where sufficient evidence of discrimination was found and where a decision confirming the evidence was made. In the remaining 56 cases no finding of violation was found. This does not necessarily imply that there was no discrimination in the cases, but merely that for example the evidence to support the claim of discrimination was too weak.

transposition of such law in national legislation around the EU, the amount of substantiated sexual orientation discrimination cases is remarkably low.

In **Latvia**, the Office of the Ombudsman and the LGBT NGO *Mozaika* suggest that the low number of discrimination cases can be attributed to a number of reasons, such as the reluctance of LGBT persons to deal with the publicity of a court case and the lack of recognition of the problems they face as discrimination.<sup>167</sup> As a representative from the LGBT NGO *Mozaika*, put it during interview:

‘Generally people are not open about their sexual orientation at work and they don’t know their rights and want to avoid publicity. There is also the issue of internalised homophobia; Latvian society is so homophobic that LGBT people adopt negative views about themselves.’<sup>166</sup>

At interview, the LGBT NGO Campaign against Homophobia in **Poland** noted that for LGBT persons, filing a complaint poses a risk of losing one’s job.<sup>168</sup> With Poland’s relatively high unemployment rate, LGBT persons are fearful of being victimised, and filing a complaint against an employer is perceived as lowering the chances of finding new employment.<sup>169</sup> A representative from the Equality Authority in **Ireland** informed interviewers that due to fear of publicity, even LGBT persons who are well aware of their rights are reluctant to come forward and make claims.<sup>170</sup>

In 2007 the lesbian organisation *ŠKUC LL*, **Slovenia**, prepared the TV advertisement ‘Stop homophobia: Safe workplace for everyone’. The advertisement featured famous **Slovenian** LGBT people at work. It was shown on national television and other local and commercial TV channels.<sup>171</sup>

In **Greece**, some limited discrimination testing research<sup>172</sup> showed that one in four employers were reluctant to call candidates which they know or presume are gay (‘gay-labelled’) to job interviews. This percentage is higher for male employers (1 in 3).

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<sup>166</sup> Fieldwork meeting with Mozaika (Latvia, 12 March 2008)

<sup>167</sup> Fieldwork meeting with the Office of the Ombudsman and Mozaika in (Latvia, 12 March 2008)

<sup>168</sup> Fieldwork meeting with Kampania, (Poland, 17 March 2008)

<sup>169</sup> Fieldwork meeting with Kampania, (Poland, 17 March 2008)

<sup>170</sup> Fieldwork meeting with the Equality Authority Ireland, (Ireland, 4 April)

<sup>171</sup> See <http://www.ljudmila.org/lesbo/english.htm> (22.10.2008).

<sup>172</sup> Drydakis Nick (2007), ‘Dual Life for Equal Labour? Sexual Orientation Discrimination in the Greek Labour Market’, Department of Economics, University of Crete, B.E.N.E.Tec, available at [http://www.soc.uoc.gr/econ/wpa/docs/Sexual\\_Orientation\\_Discrimination\\_in\\_Greece\\_Drydakis.pdf](http://www.soc.uoc.gr/econ/wpa/docs/Sexual_Orientation_Discrimination_in_Greece_Drydakis.pdf) (11.09.2009)

In **France**, the LGBT NGOs *Inter LGBT* and *L'Autre Cercle* told interviewers of 'a missing link' between the word 'discrimination' and sexual orientation: "When you mention the word 'discrimination' people automatically think of gender and race/ethnicity—whereas the other grounds, including sexual orientation, are left far behind."<sup>173</sup>

In **France**, *HALDE* [High Authority for the Fight Against Discrimination and for Equality] has developed and distributed the Diversity Charter [*la charte de la diversité*] to hundreds of French companies raising awareness and mobilising key stakeholders to review their practices in this area.<sup>174</sup>

In **Austria**, a tram driver in Vienna who was bullied by colleagues for many years was finally dismissed by the public transport company. The employee sued the company and won his case in the first instance at a Vienna industrial court. As the transport company has appealed this decision, the case is still pending in the appeal court.<sup>175</sup>

The information provided by the LGBT NGOs is supported by research findings. A study<sup>176</sup> covering both Northern Ireland in the **United Kingdom** and **Ireland** based on interviews with LGB individuals, NGOs and staff of Equality Bodies concluded that “all potential claimants face certain barriers during the identification and pursuit of complaints; however, many of these are heightened for LGB people.” Some of the barriers identified were fear of victimisation, risk of dismissal and risk of being subject to homophobic or discriminatory actions.

The Eurobarometer survey also indicated a serious lack of awareness of the relevant anti-discrimination legislation. Almost half (45 per cent) of EU citizens believe that there are no laws prohibiting discrimination on the grounds of sexual orientation when hiring a new employee.<sup>177</sup>

### **Experienced discrimination and homophobia in the workplace**

The stakeholder e-survey included questions on the opportunities for obtaining employment as an openly LGBT person compared to a heterosexual person. Forty-three per cent of respondents said they thought that openly LGB persons

<sup>173</sup> Fieldwork meeting with Inter LGBT and L'Autre Cercle, (France, 10 March 2008)

<sup>174</sup> See <http://www.charte-diversite.com> (7.2.2009)

<sup>175</sup> See: <http://wien.orf.at/stories/270683> (10.01.2009)

<sup>176</sup> J. Walsh, C. Conlon, B. Fitzpatrick and U. Hansson (2007) 'Enabling Gay, Lesbian and Bisexual Individuals to Access their Rights under Equality Law'. Dublin; Belfast: Equality Authority and Equality Commission for Northern Ireland p. 4

<sup>177</sup> Eurobarometer 263 (2007), available at [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_263\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_263_en.pdf) (12.01.2009)

would have 'unequal' or 'somewhat unequal' opportunities compared to heterosexuals. Fifty-one per cent thought that they would have 'moderately equal opportunities' or fairly equal opportunities', but only six per cent said that an openly LGB person would have equal opportunities. Regarding opportunities for obtaining employment as an openly transgender person, however, 71 per cent of the respondents consider that they would have 'unequal' or 'somewhat unequal' opportunities in getting a job.

### Research on workplace experiences

The results from the e-survey and fieldwork interviews correlate with research findings in several Member States, for example **Belgium**,<sup>178</sup> **Germany**,<sup>179</sup> **Sweden**,<sup>180</sup> **Slovakia**,<sup>181</sup> **Ireland**,<sup>182</sup> **Denmark**,<sup>183</sup> **Hungary**,<sup>184</sup> **Finland**.<sup>185</sup> In summary, these research studies show that LGBT persons experience discrimination and homophobia in the workplace through direct and indirect discrimination (access to employment, dismissal and lack of promotion); unequal treatment in the areas of appreciation, performance pressure, advancement, training, earnings, and/or holiday; harassment in the form of demeaning or derogatory statements, name-calling or insults, use of abusive language by colleagues, mocking, ridicule, gossip or rumours; sexually explicit remarks; and social isolation.

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<sup>178</sup> Social and Economic Council Flanders (SERV), 'Holebi's en de arbeidsmarkt', SERV 2005; John Vincke, Alexis Dewaele, Wim Van den Berghe and Nele Cox, 'Zzzip – een statistisch onderzoek met het oog op het verzamelen van basismateriaal over de doelgroep holebi's', Gent 2006

<sup>179</sup> D. Frohn (2007) "'Out im Office?!'" Sexuelle Identität, (Anti-)Diskriminierung und Diversity am Arbeitsplatz'. Köln: Schwules Netzwerk NRW e.V. (ed.) funded by Ministry for Intergenerational Affairs, Family, Women & Integration of North Rhine-Westphalia.

<sup>180</sup> Arbetsvillkor och utsatthet, Arbetslivsinstitutet 2003

<sup>181</sup> P. Jójárt, M. Šípošová and A. Daučíková (2002) 'Report on Discrimination of Lesbians, Gay men and Bisexuals in Slovakia', Archive, Bratislava

<sup>182</sup> The Equality Authority (2002) 'Implementing Equality for Lesbians, Gays and Bisexuals'. Dublin

<sup>183</sup> The survey was conducted by CATINÉT Research on behalf of Ugebrevet A4. Findings published in Ugebrevet A4, August 8, 2005 (A.F. Thøgersen, S. Kudahl).

<sup>184</sup> J. Takács, L. Mocsonaki, and T. P. Tóth, 'A leszbikus, meleg, biszexuális és transznemű (LMBT) emberek társadalmi kirekesztettsége Magyarországon' (Social Exclusion of LGBT People in Hungary), Budapest: MTA SZKI 2007. A recent survey in Hungary (Takács, Mocsonaki, and Tóth 2008), show that more than one third of the LGBT respondents stated to experience discrimination and prejudice in their workplace

<sup>185</sup> J. Lehtonen and K. Mustola eds. (2004) "'Straight people don't tell, do they...?'" Negotiating the boundaries of sexuality and gender at work'. Research Reports 2b/04. Ministry of Labour



While lack of openness can render the problem of sexual orientation discrimination invisible, closeted LGBT persons also experience discrimination. Research conducted in the **Slovak Republic**<sup>186</sup> showed that although many LGB persons conceal their sexual orientation at work, more than 25 per cent experienced harassment. In **Sweden** a man employed by a hospital in Skåne reported his employer to the Equality Body *HomO* for discrimination in working life on the grounds of his sexual orientation, because after mentioning at his work that he was a homosexual, he was subjected to insinuations, disparaging comments and downright ‘mobbing’ by his colleagues for several years. Despite several appeals to his supervisor, no action was taken. *HomO* contacted the Swedish Municipal Workers’ Union, to which the man belonged, and the union represented him in negotiations with the employer, who admitted having failed to fulfil his obligations to take action. The complainant was awarded compensation of more than SEK 30,000 (approximately 3,000 EUR).<sup>187</sup>

TRACE –Transnational Cooperation for Equality<sup>188</sup> is the result of a collaboration between four EQUAL projects in **France** (*Deledios*), **Lithuania** (Open and Safe at Work), **Slovenia** (Partnership for Equality) and **Sweden** (Beneath the Surface) and aiming at combating discrimination and inequality of LGB persons in employment. Open up Your Workplace: Challenging Homophobia and Hetero-normativity is a book consisting of experiences and practical advice gathered from TRACE, which examines how norms and prejudice operate at the workplace and how to change them.<sup>189</sup>

### The prevalence of discrimination

A number of studies have been carried out with the aim of surveying the extent of discrimination against LGBT persons in the labour market. In this section surveys in **France**, **Sweden**, **Denmark**, **Hungary** and the **United Kingdom** indicating the prevalence of discrimination and perceived discrimination are highlighted.

In **France**, the national opinion poll conducted by the observatory of *L’Autre Cercle* showed that 42 per cent of homosexuals are not visible within their company, while 16 per cent of the cases of homophobia reported in the annual report of *SOS Homophobie* (2007) are related to work. In **Sweden**, a survey<sup>190</sup>

<sup>186</sup> Paula Jójárt, Marianna Šípošová and Anna Daučíková, ‘Report on Discrimination of Lesbians, Gay men and Bisexuals in Slovakia’, Archive, Bratislava 2002.

<sup>187</sup> See [www.homo.se](http://www.homo.se) (19.08.2008) (Decision of 6 November 2000, Dossier No. 103/99)

<sup>188</sup> See [http://www.atviri.lt/index.php/about\\_trace\\_transnational\\_cooperation/about\\_trace/1277](http://www.atviri.lt/index.php/about_trace_transnational_cooperation/about_trace/1277) (22.10.2008)

<sup>189</sup> See [http://www.atviri.lt/index.php/about\\_trace\\_transnational\\_cooperation/publications/1822](http://www.atviri.lt/index.php/about_trace_transnational_cooperation/publications/1822) (22.10.2008).

<sup>190</sup> Arbetsvillkor och utsatthet, Arbetslivsinstitutet 2003. Stockholm.

by the *Arbetslivsinstitutet* [National Institute for Working Life] showed that 30 per cent of homosexual and bisexual women said that demeaning statements of LGB persons were common at work.<sup>191</sup> A survey conducted on sexual orientation discrimination of lesbians and gay men in **Denmark** showed that 39 per cent had experienced discrimination at work because of their sexual orientation.<sup>192</sup> A recent analysis of 150 personal accounts of discrimination and a survey conducted by the Institute of Sociology in **Hungary** showed that more than one-third of the LGBT respondents experienced discrimination and prejudice at work.<sup>193</sup> In a survey<sup>194</sup> carried out by the trade union UNISON in the **United Kingdom**, 52 per cent of LGBT members said that they have been discriminated against because of their sexual orientation.

Another **United Kingdom** study,<sup>195</sup> by Stonewall, that surveyed 1,658 LGB persons across Britain, showed that 20 per cent of respondents experienced bullying from their colleagues because of their sexual orientation. Furthermore, findings showed that certain categories of lesbian and gay employees - such as skilled, semiskilled or unskilled manual workers - are 50 per cent more likely to experience bullying than higher managerial, administrative or clerical employees.

Clearly the proportion of those experiencing discrimination based on sexual orientation in these surveys is unacceptably high. In addition, it is reasonable to assume that given the lack of visibility and disclosure of LGBT identity the results partially mask the real magnitude of the problem.

### **Employers' attitudes and responsibilities towards LGBT staff**

EU anti-discrimination law places obligations on employers to protect employees from discrimination, and to ensure equal treatment on grounds of sexual orientation. Nevertheless, the responsibility of the employer was rarely mentioned during the fieldwork interviews by the National Equality Bodies, public authorities and LGBT NGOs interviewed for this report.

A **United Kingdom** study addressing the impact of employment equality legislation<sup>196</sup> found that 34 per cent of LGB respondents said employment equality legislation has had a positive impact and that 65 per cent said they

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<sup>191</sup> Arbetsvillkor och utsatthet, Arbetslivsinstitutet 2003. Stockholm.

<sup>192</sup> The survey was conducted by CATINÉT Research on behalf of Ugebrevet A4. Findings published in Ugebrevet A4, August 8 2005 (A.F. Thøgersen, S. Kudahl).

<sup>193</sup> J. Takács, L. Mocsonaki, and T. P. Tóth, 'A leszbikus, meleg, biszexuális és transznemű (LMBT) emberek társadalmi kirekesztettsége Magyarországon' (Social Exclusion of LGBT People in Hungary), Budapest: MTA SZKI 2007.

<sup>194</sup> Unpublished survey of UNISON LGBT members

<sup>195</sup> R. Hunt and S. Dick (2008) 'Serves You Right. Lesbian and gay people's expectations of discrimination' Stonewall

<sup>196</sup> Colgan, F., Creegan, C., McKerney, A. and Wright, T. (undated) 'Lesbian, Gay and Bisexual Workers: equality, Diversity and Inclusion in the Workplace: A Qualitative Research Study'. COERC/London Metropolitan University.

would be more likely to file a complaint after the introduction of the regulations if a problem arose.

'Equality for lesbian and gay people is integral to our corporate equality policies. We want to be a safe place for lesbian and gay people to work. As the largest employer in the county we also see our role as setting an example to other employers in the area.'<sup>197</sup> (Senior Education Officer, Denbighshire County Council, UK)

These findings highlight the role of management. A **German** study showed that diversity management activities and an open-minded culture (offering partner benefits, for example) have an influence on the openness and welfare of LGB employees.<sup>198</sup> Interviewees pointed out that the mere presence of diversity management policies does not necessarily prevent discrimination.<sup>199</sup> Nevertheless, it can be an important first step in an organisation.

According to an ILGA-Europe report, action by employers responding to pressure for legal compliance is yielding to a growing argument about the 'business case' for diversity.<sup>200</sup> In **Germany**, for example, a number of multinational companies (Ford, Schering and Deutsche Bank, to name a few) support the creation of LGB networks within their companies and include partner benefits for both LGB and heterosexual workers.<sup>201</sup>

**Diversity Programmes.** The Stonewall Diversity Champions programme was established in the **United Kingdom** in 2001 to bring together organisations that wanted to tackle sexual orientation discrimination, share good practice, benchmark and develop ideas and promote diversity in the workplace. The companies involved have taken a number of steps outlined in the Stonewall Diversity Champions programme: For example, they have developed and promoted a written equality and diversity policy barring discrimination and specifically identifying sexual orientation as a dimension of discrimination; they have developed a working group/diversity team that includes LGB issues; they have established a lead person for LGB issues at board/chief executive level; they have established an LGBT network group for support, consultation and policy instruction at the workplace.<sup>202</sup>

<sup>197</sup> Stonewall (2007) 'Sexual Orientation Employer Handbook', Third Edition, p. 8.

<sup>198</sup> D. Frohn (2007) "'Out im Office?!'" Sexuelle Identität, (Anti-)Diskriminierung und Diversity am Arbeitsplatz'. Köln: Schwules Netzwerk NRW e.V. (ed.) funded by Ministry for Intergenerational Affairs, Family, Women & Integration of North Rhine-Westphalia.

<sup>199</sup> Fieldwork meeting with Cigale (Luxembourg 7 April 2008), Fieldwork meeting with Arcigay and Arcilesbica, (Italy 5 March 2008).

<sup>200</sup> S. Quinn, B. Hardt and E. Paradis (2007) 'Going Beyond the Law: promoting equality in employment'. ILGA-Europe report

<sup>201</sup> S. Quinn, B. Hardt and E. Paradis (2007) 'Going Beyond the Law: promoting equality in employment'. ILGA-Europe report

<sup>202</sup> See <http://www.stonewall.org.uk/workplace/1447.asp> (18.02.2009)

**The Swedish *All Clear* partnership** project brought together a number of organisations with the common objective of creating a working environment of universal respect regardless of sexual orientation. Employers' organisations, unions, LGBT organisations and a municipality worked together, offering seminars, training sessions and a variety of publications. Over three years around 8,000 union representatives, employers and others were educated through the project. The project finished in the autumn of 2007.<sup>203</sup>

## Conclusions

LGBT persons are subject to homophobia and discrimination in the labour market in a number of ways: direct discrimination, harassment, bullying, ridicule and being socially 'frozen out'. Due to the invisibility of LGBT persons and a relatively low level of recorded complaints to National Equality Bodies, the actual extent of homophobia, transphobia and discrimination is not possible to determine. A general lack of awareness of rights, together with the reluctance of LGBT persons to publicly display their sexual orientation or gender identity through a tribunal or court case partly explain this phenomenon.

Many workplaces are currently not considered 'safe havens' for LGBT staff. Although data varies according to national context, studies and interviews with National Equality Bodies and LGBT NGOs demonstrate that the majority of LGBT persons are generally reluctant, or somewhat reluctant, to being 'out' and open in the workplace.

Past experiences or fear of homophobia and discrimination, the risk of dismissal and the workplace environment all play a role in determining LGBT persons' decisions about openness in the workplace. Nevertheless, closeted sexual orientations can affect the health and well-being of LGBT staff and may result in less satisfactory work results.

The role of management, as well as the presence or lack of diversity and equal treatment policies, has implications for LGBT persons' perception of a safe and inclusive work environment. Here, the presence of employment equality legislation, and its inclusion of LGBT persons, influences the incentives to bring discrimination cases forward.

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<sup>203</sup> See <http://www.frittfram.se/default.asp?lid=1> (22.10.2008).

## Education

This section examines bullying and harassment of LGBT youth in schools and its impact, as well as the invisibility of sexual orientation issues in school curricula and culture.

As the European Commission has noted, '[t]here is considerable evidence of discrimination on grounds of sexual orientation in schools, primarily involving homophobic bullying.'<sup>204</sup> A study carried out by the Equality Authority in **Ireland** shows that many LGB persons become aware of their homosexual orientation before the age of fifteen, meaning that many LGBT persons often go through adolescence and school knowing their sexual identity, leaving them potentially vulnerable.<sup>205</sup> Furthermore, according to an ILGA-Europe study,<sup>206</sup> adolescence is a critical time in a person's socialisation, when "girls learn to be girls and boys learn to be boys", i.e. when the boundaries of gender expression and behaviour are influenced by others, including peer group members, friends, teachers and family members.

Across the EU, the majority of National Equality Bodies, LGBT NGOs and public authorities interviewed, identified and highlighted bullying and harassment, as well as lack of representation of LGBT identities and issues, as key concerns in education.

### **Bullying and harassment of LGBT youth in schools**

Comprehensive studies and surveys on homophobia, transphobia and discrimination of LGBT persons in education provide some evidence in a number of Member States. Interviews with National Equality Bodies, public authorities and LGBT NGOs in all 27 Member States showed that manifestations of homophobia are a major problem in educational settings across the EU.

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<sup>204</sup> See Commission Staff Working Document accompanying a Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation. SEC(2008) 2180, 2.7.2008, p 18

<sup>205</sup> The Equality Authority (2002) 'Implementing Equality for Lesbians, Gays and Bisexuals', Dublin

<sup>206</sup> J. Takács (2006) 'Social Exclusion of young lesbian, gay, bisexual and transgender (LGBT) people in Europe', Brussels: ILGA-Europe and IGLYO

Comments from the guys didn't bother me because that was just guys being guys. I mean, it shouldn't be that way but it doesn't bother you because when you've heard it about a million times you get to know it all and it's just, you don't think that is so important for you. But the certain individual...did bother me because I don't really need someone who I thought was a friend commenting on my sexuality with loads of others. So I mean, that did bother me and affected my studies because I was quite angry and filled up about that individual. And I didn't go to school for quite a while because I was so angry with that individual. (Gay man, aged 17, London)<sup>207</sup>

In interview the **Belgian** LGBT NGO *Arc en Ciel*, was of the opinion that homophobia and bullying in schools are issues of the utmost concern.<sup>208</sup> Similarly, the LGBT NGO *FELGT*, in **Spain**, told interviewers that 'coming out' in high school poses a safety risk and incidents of homophobia continue to occur in high schools.<sup>209</sup> The LGBT NGO *Hätter* noted, during interview, high levels of LGBT harassment and bullying in **Hungarian** schools.<sup>210</sup>

Many LGBT NGOs and National Equality Bodies pointed to the use of the word 'gay' as a common derogatory term in schools. They also said that teachers are often reluctant to take name-calling and other types of LGBT harassment seriously.

Bullying and harassment of LGBT students have been studied in the **United Kingdom, Malta, Ireland** and by ILGA-Europe.

In the **United Kingdom** experiences of LGB persons in education were examined in a 2006 survey of 1,100 LGB youth.<sup>211</sup> The survey found that almost 65 per cent of young LGB persons stated that they had experienced bullying in British schools because of their sexual orientation. Forms of harassment included verbal abuse (92 per cent), physical abuse (41 per cent), cyber-bullying (41 per cent), death threats (17 per cent) and sexual assault (12 per cent). Practically all young LGB persons stated that they hear phrases like 'that's so gay' used in a pejorative way and hear insulting remarks such as 'poof', 'dyke' and 'rug-muncher'.

In **Malta** the Gay Rights Movement studying homophobic bullying, harassment and violence by students and teachers found that transgender students were

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<sup>207</sup> Fiona Colgan, Chris Creegan, Aidan McKearney and Tessa Wright, 'Lesbian, Gay and Bisexual Workers: Equality, Diversity and Inclusion in the Workplace. A Qualitative Research Study' Comparative Organisation and Equality Research Centre (COERC) London Metropolitan University, available at <http://www.unison.org.uk/file/A2742.pdf> (14.02.2009)

<sup>208</sup> Fieldwork meeting with Arc en Ciel (Belgium 3 April 2008)

<sup>209</sup> Fieldwork meeting with FELGT (Spain 13 March 2008)

<sup>210</sup> Fieldwork meeting with Hätter (Hungary 17 April 2008)

<sup>211</sup> R. Hunt, J. Jensen (2007) 'The Experiences of Young Gay People in Britain's Schools: The School Report'. Stonewall

likely to drop out of school or skip classes because of the bullying, harassment or lack of understanding by teachers and students.<sup>212</sup>

In **Ireland**, research on homophobic bullying was carried out in 365 schools.<sup>213</sup> According to the findings, 79 per cent of the teachers surveyed were aware of instances of verbal homophobic bullying and 16 per cent of the teachers had encountered instances of physical homophobic bullying. A further finding of the research was that homophobic bullying is more likely to take place in boys' single-sex schools and co-educational schools than in girls' single-sex schools.

Research<sup>214</sup> carried out by ILGA-Europe and IGLYO included 754 responses from young LGBT people from 37 European countries. The research found that 61 per cent referred to negative personal experiences at school related to their LGBT status and 53 per cent reported having being bullied. The research also showed that both LGBT and heterosexual youth that do not conform to stereotypical gender expressions and behaviour are at risk in the school environment. Bullying was often interpreted by respondents as being related to or being the consequence of gender nonconforming behaviour, character and look – or what was perceived to be such by others.

In **Sweden**, a male pupil complained that during the last three years of the nine-year compulsory school he had been subjected to harassment on grounds of sexual orientation from other pupils and school staff. According to the complainant, the school had been aware of the fact that he was being subjected to harassment but had failed to secure sufficient measures to prevent further degrading treatment. In contacts with the Ombudsman the municipality responsible for the school stated that the school had made great efforts to improve the pupil's situation and that it had met the demands placed upon it. A settlement was subsequently reached between the Ombudsman and the municipality. The settlement included the payment of 30,000 SEK (approximately €3,200) by the municipality to the pupil.<sup>215</sup>

**Anti-homophobic school bullying campaign:** In **Ireland**, the initiative *Making Your School Safe* carried out by the Equality Authority and *BeLonG To* addressed school principals, teachers and students. It included a variety of

<sup>212</sup> Malta Gay Rights Movement (2003) 'Sexual Orientation Discrimination in Malta: A Report on Discrimination, Harassment, and Violence against Malta's Gay, Lesbian and Bisexual Community', Malta: Union Press. And J. Takács (2006) 'Social exclusion of young lesbian, gay, bisexual and transgender (LGBT) people in Europe', Brussels: ILGA-Europe and IGLYO

<sup>213</sup> N. James, M. Galvin and G. McNamara (2006) 'Straight talk: Researching gay and lesbian issues in the school curriculum'. Dublin: Centre for Educational Evaluation, Dublin City University

<sup>214</sup> J. Takács (2006) 'Social Exclusion of young lesbian, gay, bisexual and transgender (LGBT) people in Europe', ILGA-Europe and IGLYO

<sup>215</sup> Decision, 3 August 2007, Dossier no. 620-2006, available at [www.homo.se/o.o.i.s/403411/072008](http://www.homo.se/o.o.i.s/403411/072008) (12.10.2008)

activities, such as posters for schools carrying the message: 'Homophobic bullying is not acceptable in our school', booklets, fliers, etc. The project campaigned for further action by schools, for example, developing anti-bullying and anti-harassment policies, and codes of behaviour; including LGBT issues in school equality policies; training and empowering staff to address homophobic harassment and bullying in school more effectively; ensuring that guidance counsellors are properly trained in sexual identity issues.<sup>216</sup>

LGBT NGOs and National Equality Bodies interviewed during the fieldtrips highlighted particularly that teachers do not respond to the use of homophobic language at school or fail to take measures to prevent the use of such language. A study in the **United Kingdom** found that homophobic bullying and harassment sometimes persists despite school staff awareness: out of 300 schools observed, 82 per cent were aware of verbal homophobia and 26 per cent reported knowledge of incidents of physical homophobic bullying. But although all schools surveyed had general anti-bullying policies, only 6 per cent of these recognised specifically homophobic bullying.<sup>217</sup>

In this context, research in Ireland found that the majority of Irish second-level schools have anti-bullying and equal treatment policies, but few refer specifically to gay and lesbian equality: most teachers were aware of homophobic bullying in their schools, but 41 per cent stated that it is more difficult to respond to than other forms of bullying. Some teachers did not consider this type of behaviour to be anything more than 'horseplay' or 'messing around'.<sup>218</sup> This approach, however, might also be interpreted by students as condoning such behaviour.

In **Sweden**, research suggests that teachers lack the tools to address LGBT issues. A survey carried out by the Beneath the Surface project shows that only eight per cent of teacher respondents think that they have been trained to address such issues properly.<sup>219</sup>

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<sup>216</sup> See <http://www.equality.ie/index.asp?docID=593> (17.10.2008)

<sup>217</sup> S. Averill (2004) 'How can young people be empowered to achieve justice when they experience homophobic crime?' available at <http://www.schools-out.org.uk/research/docs/Partners%20An%20update%20to%20tackling%20homophobia.pdf> (11.11.2008)

<sup>218</sup> J. Norman, M. Galvin and G. McNamara (2006) 'Straight talk: Researching gay and lesbian issues in the school curriculum'. Dublin: Centre for Educational Evaluation, Dublin City University quoted in Ireland, country report.

<sup>219</sup> See <http://www.ytan.se/?p=1892> (18.08.2008)



**Multiple action targeting teachers and politicians:** In Sweden, a major EQUAL<sup>220</sup> project *Under Ytan* [Beneath the Surface] was carried out between 2004 and 2007 engaging several partners, such as LGBT NGOs, National Equality Bodies, public authorities, universities and trade unions. It engaged in a variety of activities, including, for example, developing educational resources and methods to raise awareness in schools, inspirational materials for school use, training to challenge hetero-normativity, support for teachers working on sexual orientation issues and homophobia, support for schools and local authorities implementing anti-discrimination legislation in the school environment.<sup>221</sup>

### **Impact of harassment and bullying on LGBT persons**

Studies in the **United Kingdom** and a transnational NGO youth project covering **Italy, Spain, Poland** and **Austria**—*The School Mates Project 2007*—highlight the negative consequences of homophobic harassment and bullying on school performance and the general well-being of LGBT students.

Studies in the **United Kingdom** show that a homophobic school environment may lead LGBT youth to higher levels of absenteeism and truancy in secondary school, thus reducing their chances to enter higher or further education.<sup>222</sup>

Other studies in the **United Kingdom** indicate that bullying of LGBT pupils can have serious disempowering effects causing social isolation and psychological stress, especially for youths who discover their homosexuality early while in lower school grades. Homophobia and homophobic bullying in schools also have a negative impact on LGBT pupils' self-image, confidence and schoolwork.<sup>223</sup>

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<sup>220</sup> For more information on the European Commission's EQUAL initiative see [http://ec.europa.eu/employment\\_social/equal/index\\_en.cfm](http://ec.europa.eu/employment_social/equal/index_en.cfm) (10.12.2009)

<sup>221</sup> See <http://www.ytan.se/?p=1892> (18.08.2008)

<sup>222</sup> M. Jenett (2004) 'Stand up for us: Challenging homophobia in schools, Yorkshire': Crown Copyright; H. Wallace (2005) 'Time to Think', London: Metro Centre, available at <http://calm-seas.co.uk/timetothink/intro.htm> (27.07.2008)

<sup>223</sup> S. Averill, How can young people be empowered to achieve justice when they experience homophobic crime?, available at <http://www.schools-out.org.uk/research/docs/Partners%20An%20update%20to%20tackling%20homophobia.pdf> (20.12.2008); Colgan, F., Creegan, C., McKerney, A. and Wright, T. (undated) 'Lesbian, Gay and Bisexual Workers: equality, Diversity and Inclusion in the Workplace: A Qualitative Research Study'. COERC/London Metropolitan University

‘When I was at school, I was bullied for being gay but it was only because my classmates presumed I was gay ...it was before I even told people I was gay. I was verbally and physically bullied and I had no friends for the first three years of high school. It made me very insecure as a person and I found it hard to make friends after that as it had made me really paranoid and vulnerable.’ (Male, 21, UK)<sup>224</sup>

The effects of bullying were also examined in the context of the *Schoolmates Project*<sup>225</sup> (2006-2008), a transnational initiative of *Arcigay* (the Italian lesbian and gay association) in partnership with *COLEGA* Madrid, *KPH* Warsaw and the City of Vienna. It found that such bullying may lead LGBT youth to contemplate self-harm and engage in high-risk behaviour. Seeking family or community support for lesbian, gay, bisexual or transgender adolescents may also be particularly difficult.

### **Sexual orientation in school curricula and culture**

Another issue highlighted during the fieldwork by LGBT NGOs is the general invisibility of sexual orientation issues in schools, which may have negative consequences for the self esteem of LGBT youth. A study in the **United Kingdom** found that several of the LGBT youth examined suggested that this resulted in a feeling of not being able to 'be oneself'.<sup>226</sup>

The general invisibility of sexual orientation issues and the lack of any positive representations of LGBT people within education were also noted by LGBT NGOs interviewed in all EU Member States.<sup>227</sup>

The e-survey of stakeholders showed that 65 per cent believe that school curricula 'did not consider' or 'showed a low degree of consideration' for LGBT issues (for example, non-traditional family arrangements, relationships, gender roles or sexual preferences).

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<sup>224</sup> J. Takács (2006) 'Social Exclusion of young lesbian, gay, bisexual and transgender (LGBT) people in Europe', Brussels: ILGA-Europe and IGLYO. P. 51

<sup>225</sup> See <http://www.arcigay.it/schoolmates> (12.08.2008)

<sup>226</sup> F. Colgan, C. Creegan and A., McKerney T. Wright (undated) 'Lesbian, Gay and Bisexual Workers: equality, Diversity and Inclusion in the Workplace: A Qualitative Research Study'. COERC/London Metropolitan University

<sup>227</sup> Fieldwork meetings in EU April-May 2008

**Children's books:** ILGA Portugal has been involved in producing two children's books with the objective of reaching parents and children, explaining the subject of sexual diversity and deconstructing stereotypes and prejudice against LGBT persons and families.<sup>228</sup>

According to *the School Mates Project*, mentioned earlier, silence and biased views from teachers and peers on LGBT issues foster negative attitudes towards homosexuals, which increase the sense of isolation and vulnerability felt by homosexual adolescents.

Studies in **Belgium** also highlight an inadequate level of LGBT-relevant information and training for pupils and teachers.<sup>229</sup>

**Educational material for schools:** In **Belgium**, the Education Minister of the French Community issued in 2006 an educational guidebook on homophobia at school that was sent to every primary and high school in the French-speaking region.<sup>230</sup> Also in Belgium, the Flemish government subsidised a pioneering project of the Region of Flemish-Brabant in 2007 developing an educational toolkit on 'gender diversity and transgender' for pupils from 14 to 18 years of age.<sup>231</sup>

A comprehensive two-year study<sup>232</sup> in 12 **Irish** schools based on classroom observation, student and staff interviews, focus groups and survey results found that sexual orientation was a taboo subject. The institutional invisibility was reinforced by a lack of vocabulary to name and discuss sexual difference. Discussions of sexual orientation in class or focus groups resulted thus in silence, discomfort, fear and hostility. While disabled people, as well as religious and racial minorities were also the subjects of negative stereotyping, they did not evoke the same level of hostility or disrespect as gays and lesbians. Fifty-five per cent of students surveyed would terminate a friendship, if they found out that the person was gay or lesbian.

The stakeholder e-survey showed that more than half assessed the level of LGBT acceptance among school personnel as 'somewhat low' to 'nonexistent'. During fieldwork research LGBT NGOs reported that school authorities did not always allow access to schools for carrying out awareness raising initiatives. The country reports of **Malta, France, Luxembourg, Poland** and **Bulgaria** make reference to examples of LGBT NGOs being blocked or ignored by

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<sup>228</sup> W. Pena (2007) 'Por quem me apaixonarei?' Associação ILGA Portugal/eraseunavez.com and J.T. Delgado (2007) De onde venho? Associação ILGA Portugal/eraseunavez.com, see <http://www.ilga-portugal.pt/noticias/20071208.htm> (22.01.2008)

<sup>229</sup> K. Pelleriaux and J. Van Ouytsel (2003), 'De houding van Vlaamse scholieren tegenover holebiseksualiteit', Antwerp; Universiteit Antwerpen

<sup>230</sup> Belgium, country report

<sup>231</sup> Fieldwork meeting with Flanders Ministry of Education (Belgium 4 April 2008) and Belgium, country report

<sup>232</sup> K. Lynch and A. Lodge (2002) 'Equality and Power in Schools. Redistribution, recognition and representation'. Routledge. London. P. 181-182

school authorities when attempting to raise awareness and combat homophobia in schools.<sup>233</sup>

In **Bulgaria**, for instance, when the project *Deafening Silence: The Case in My School* funded by the MATRA Program of the Dutch embassy attempted to probe awareness of LGBT issues in Bulgarian high schools, of the 144 high schools invited to participate in an initial meeting for the project in the summer of 2007 just 15 responded and only seven participated.

**Teaching aid on sexual identity:** In **Slovenia**, The Peace Institute issued in 2003 the CD-ROM 'Diversity Makes Us Richer, Not Poorer: The Everyday Life of Gays and Lesbians' featuring three short movies on experiences of discrimination by gays and lesbians in everyday life and six sets of interviews with lesbians and gays discussing issues of coming out, family, violence, workplace, friends, etc. It is intended to assist teachers in classroom discussions on homosexuality.<sup>234</sup>

## Conclusions

Incidents of bullying and harassment of LGBT persons are reported in educational settings across the EU affecting the school performance and well-being of LGBT students and leading to marginalisation, poor health or dropping out of school. School authorities across the EU pay little attention to these worrying phenomena and teachers often lack the awareness, training and tools to recognise and tackle such problems effectively.

LGBT NGOs across the EU raise concerns regarding the absence of sexual orientation issues as well as positive representation of LGBT people and their families in educational curricula, as it contributes to the social isolation of young lesbian, gay, bisexual and transgender students in school. They have also pointed out that often teachers avoid issues of sexual orientation and identity.

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<sup>233</sup> Fieldwork meetings in the EU Member States (March-April 2008)

<sup>234</sup> See <http://www2.mirovni-institut.si/razlicnost/eng/index.html> (17.10.2008)

## Health

This section looks at issues of homophobia and discrimination in access to health services, the recognition of same-sex partners as 'next of kin', the health of LGBT persons, and the stigmatisation attached to HIV status and gay and bisexual men.

### Homophobia and discrimination in access to health services

In its proposal for a 'horizontal' anti-discrimination Directive<sup>235</sup> the European Commission noted that in 'the health-care area, many LGB people fear stigma and prejudice from health-care providers'. During the fieldwork interviews LGBT NGOs and National Equality Bodies highlighted various examples of incidents involving homophobic behaviour and discrimination. During research in the field, for example, in **Latvia** the LGBT NGO *Mozaika* referred to an incident in which a doctor expressed a homophobic attitude towards a young lesbian patient and subsequently to her mother for having a lesbian daughter.<sup>236</sup>

Studies in the **United Kingdom**, **Slovenia** and **Portugal** also indicate that LGBT persons experience discrimination and homophobia in access to health services. In the largest survey of this kind in the **United Kingdom**<sup>237</sup> involving 6,178 lesbian and bisexual women half of the respondents had experienced homophobia and discrimination in access to healthcare. In **Slovenia**, research on sexual orientation discrimination showed that 7 per cent of the LGB persons surveyed have been advised to undergo psychiatric treatment because of their homosexuality and 7.6 per cent of respondents experienced discrimination in healthcare services.<sup>238</sup> **Portuguese** research raises the issue of medical staff hetero-normativity. Examples include gynaecologists explicitly assuming that patients are in heterosexual relationships, and gay men automatically being associated with HIV/AIDS.<sup>239</sup> In a national survey, of 350 respondents 13.3 per cent felt discriminated against at least once, either directly or indirectly, by

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<sup>235</sup> Commission Staff Working Document accompanying a Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, SEC(2008) 2180, 2.7.2008, p 18

<sup>236</sup> Fieldwork meeting with Mozaika (Latvia 12 March 2008)

<sup>237</sup> Ruth Hunt and Dr Julie Fish, 'Prescription for Change: Lesbian and Bisexual women's health check 2008', Stonewall Equality, available at [http://www.stonewall.org.uk/documents/prescription\\_for\\_change\\_1.pdf](http://www.stonewall.org.uk/documents/prescription_for_change_1.pdf) (05.02.2009)

<sup>238</sup> T. Greif, N. Velikonja (2001) 'Anketa o diskriminaciji na osnovi spolne usmerjenosti', Lesbo 11/12, [http://www.ljudmila.org/lesbo/raziskave\\_porocilo1.htm](http://www.ljudmila.org/lesbo/raziskave_porocilo1.htm) (March 29, 2008)

<sup>239</sup> Portugal, country report

health professionals on the grounds of their sexual orientation.<sup>240</sup> Furthermore, many Portuguese psychotherapists view homosexuality as a ‘problem’.<sup>241</sup>

**Training of healthcare professionals in LGBT competence:** In Sweden, the LGBT NGO *RFSL* educates healthcare professionals in LGBT competence. During the last year, around 15 hospitals and student groups in the healthcare sector have taken the class. During 2007, *RFSL Stockholm* and *RFSL National* have started working on defining the criteria which would qualify a hospital as ‘LGBT competent’.<sup>242</sup>

A study commissioned by *the Equality Authority* in **Ireland** carried out 43 in-depth interviews with LGB respondents focusing on the disclosure of sexual orientation to their general practitioner (GP).<sup>243</sup> In the majority of cases (26 out of 33) where interviewees informed practitioners of their LGB identity, they reported a relaxed reaction by their GPs, with reassurances of both acceptance and confidentiality, provision of relevant information, and reassurance that homosexuality was not regarded in pathological terms. Those who reported negative reactions from their GP noted signs of discomfort, such as lack of eye contact, rushing the remainder of the consultation, lack of friendliness, etc. The study underlines the importance of a supportive environment and securing of confidentiality between the GP and LGBT patient.

In **Sweden**, a lesbian woman complained of harassment by a doctor at a hospital psychiatric care unit for allegedly making comparisons between her homosexual orientation, and paedophilia and persons committing sexual acts with animals, thus giving her the impression that he considered her sexual orientation a mental disorder. Healthcare authorities expressed their sincere regrets about the incident and claimed that it was not a sign of a systemic problem in the healthcare services.<sup>244</sup>

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<sup>240</sup> T.L. Monteiro, V. Policarpo, F.V. da Silva (2006) ‘Inquérito Nacional sobre Experiências da Homossexualidade em Portugal’ (Relatório de Pesquisa/2006), Lisboa, Centro de Investigação

<sup>241</sup> G. Moita (2001) ‘Discursos sobre a homossexualidade no contexto clínico: a homossexualidade de dois lados do espelho’, Tese de Doutoramento em Ciências Biomédicas, Universidade do Porto

<sup>242</sup> Sweden, country report

<sup>243</sup> M. Gibbons, M. Manandhar, C. Gleeson and J. Mullan (2008) ‘Recognising LGB Sexual Identities in Health Services’. Dublin: Equality Authority and Health Service Executive, p. 46

<sup>244</sup> Decision 20 December 2006, dossier no 399-2006 [www.homo.se](http://www.homo.se) (22.08.2008)

During field research LGBT NGOs in **Romania** and **Hungary**, among others, that non-disclosure of LGBT identity influences the degree to which the extent of discrimination on grounds of sexual orientation can be detected. In Romania a respondent stated: *'People do not trust health personnel and do not tell their doctor that they are gay; they are even afraid that the doctor will find out,*<sup>245</sup> and in Hungary a respondent noted: *'People don't say they are LGBT, so that's why very few problems are known'*.<sup>246</sup>

The reluctance of LGBT persons to disclose their sexual orientation is confirmed by survey findings in a number of Member States. In a survey<sup>247</sup> in **Malta** 32.5 per cent of respondents claimed that they concealed their sexual orientation when accessing healthcare services. In **Germany**, studies<sup>248</sup> have demonstrated that LGBT persons remain closeted during contact with health institutions due to fear of discrimination. In a **Slovakian** study,<sup>249</sup> 50 per cent of respondents stated that they always hide their sexual orientation from medical staff and 22 per cent only disclose it occasionally, a phenomenon which may itself lead to health risks.

#### **Lack of recognition of same-sex partners in the health sector**

Obtaining access to information about a partner's health due to denial of 'next of kin' status is highlighted as a problem in the country reports for **Bulgaria**, **Hungary**, **Italy** and **Estonia**. However, denial of next of kin status is also found in Member States which recognise same-sex partnerships, as illustrated in the quote below.

'My partner had an accident in Wales and the staff wouldn't recognise me as next of kin until we made a fuss. My partner was not physically touched by the female nurses during her six days stay. She had to wash herself or wait till the male nurse came on'.<sup>250</sup> (Female, 59, UK)

During meetings in the field, representatives of the LGBT NGO *SEKÜ* in **Estonia** highlighted one example regarding a lesbian couple where the mother's partner was not allowed to be present at birth.<sup>251</sup> Similarly, representatives of the LGBT NGOs *Arcigay* and *Arcilesbica* in **Italy** also

<sup>245</sup> Fieldwork meeting with ACCEPT (Romania 7 April 2008)

<sup>246</sup> Fieldwork meeting with Hättér (Hungary 17 April 2008)

<sup>247</sup> Malta, country report

<sup>248</sup> G. Dennert (2004) 'Die gesundheitliche Situation lesbischer Frauen in Deutschland: Ergebnisse einer Befragung' [Dissertation], Nürnberg: Med. Diss. FAU Erlangen-Nürnberg

<sup>249</sup> Slovak Republic, country report

<sup>250</sup> Stonewall (2008) 'Prescription for Change. Lesbian and Women's Health Check 2008' p. 14

<sup>251</sup> Fieldwork meeting with Diversity and SEKÜ (Estonia 10 March 2008)

highlight the denial of 'next of kin' status, leaving the treatment of LGBT patients and their partners dependent on the attitudes of individual staff members.<sup>252</sup>

In contrast, interviews with representatives of *LBL* [The National Organisation for Gays and Lesbians] in **Denmark** and *CIGALE* in **Luxembourg** revealed more positive experiences with healthcare for LGB persons with healthcare.<sup>253</sup> Their representatives stated that there did not appear to be any major problems with visiting partners in intensive care, hospitals or being present when a partner is giving birth. Both NGOs noted, however, that the language used in hospital administrative forms can be a problem for LGBT persons, as two German studies have shown.<sup>254</sup>

'I was an out patient at hospital and they did not have a section to record that I was in a civil partnership on their computer system. I was told that it went on the computer as single'.<sup>255</sup> (Female, 34, UK)

The Irish study<sup>256</sup>, mentioned earlier, also considers the lack of recognition of 'next of kin' status as a serious concern, especially if a partner is hospitalised, since it can affect access to information, visitation and involvement in decision-making.

### **The stigmatisation of gay and bisexual men with HIV**

HIV status, blood donation and prejudice linked to stereotypes about gay and bisexual men and HIV/AIDS is another issue of concern raised by LGBT NGOs in **Belgium**,<sup>257</sup> **Austria**,<sup>258</sup> **Portugal**<sup>259</sup> and **Slovenia**,<sup>260</sup> affecting particularly blood donation. As a **Polish** study found, some blood donor centres

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<sup>252</sup> Fieldwork meeting with ARCIGAY and ARCILESICA (AL) (Italy 5 March 2008)

<sup>253</sup> Fieldwork meeting with Cigale (Luxembourg 7 April 2008) and LBL (Denmark 26 April 2008)

<sup>254</sup> See for example: H. Seyler (2004) 'Lesben, die unsichtbaren Patientinnen. Düsseldorf': Paper Presentation to the Commission on "Frauengerechte Gesundheitsversorgung in NRW." [10 February 2004]. And G. Wolf (2006) 'Diskriminierung und Gewalt gegen Lesben, Schwule und Bisexuelle im medizinischen und psychotherapeutischen Setting', in *Verhaltenstherapie und psychosoziale Praxis*, 38 (3)

<sup>255</sup> Stonewall (2008). 'Prescription for Change. Lesbian and Women's Health Check' 2008 p. 16

<sup>256</sup> M. Gibbons, M. Manandhar, C. Gleeson and J. Mullan (2008) 'Recognising LGB Sexual Identities in Health Services'. Dublin: Equality Authority and Health Service Executive

<sup>257</sup> Fieldwork meeting with HOLEBIFEDERATIE and Arc-en-ciel (Belgium 3 April 2008)

<sup>258</sup> Fieldwork meeting with HOSI-WIEN (Austria 1 May 2008)

<sup>259</sup> Fieldwork meeting with ILGA-Portugal (17 March 2008)

<sup>260</sup> Fieldwork meeting with Legebitra (28 April 2008)



ask only about the sexual orientation of donors rather than their actual sexual practices or risk behaviours.<sup>261</sup>

Twenty-nine per cent of the respondents to the stakeholder e-survey considered that health personnel have a “somewhat negative” or “negative” attitude towards gay men with HIV/AIDS.

Other studies point in the same direction. In **Slovenia** a study reported the case of a 24 year-old gay man who was fired because of his HIV status and another case of a man who was prevented from entering his apartment when his neighbours found out that he was HIV-positive.<sup>262</sup>

In **Malta**, interviews with representatives from the Malta Gay Rights Movement revealed problems with confidentiality in the health system, especially regarding HIV/AIDS-infected persons, has led some of them to seek treatment in another country.<sup>263</sup>

### **The health of LGBT persons**

There is very limited data available on the health of LGBT persons. Interviews with LGBT NGOs showed, in particular, that the health needs of lesbians and bisexual women are under-researched.<sup>264</sup> In interview, Stonewall, in the **United Kingdom**, suggested that lesbians are reluctant to respond to preventive healthcare messages or to seek medical support.<sup>265</sup>

Interviews revealed that in **France**, the rising number of lesbians coming to the LGBT Paris-IDF centre to ask for referral to non-biased gynaecologists led the centre to create a **Lesbian Health Guide** with addresses of ‘friendly’ gynaecologists. The guide addresses general health issues, in particular the risks of breast and uterus cancer.<sup>266</sup>

There is some evidence indicating that experiences of homophobia, discrimination, harassment and marginalisation, particularly in education and the labour market, can have a negative impact on the health of LGBT persons.<sup>267</sup>

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<sup>261</sup> R. Biedron (2007) 2005 and 2006 report ‘Health Services: Can homosexual persons become blood donors?’ in: M. Abramowicz (ed) ‘Situation of bisexual and homosexual persons in Poland’. Campaign Against Homophobia. Lambda Warsaw Association

<sup>262</sup> Slovenia, country report

<sup>263</sup> Fieldwork meeting with Malta Gay Rights Movement (Malta 3 March 2008)

<sup>264</sup> Fieldwork meeting with ARCHIGAY (AG) and ARCHILESBICA (AL) (Italy 5 March 2008)

<sup>265</sup> Fieldwork meeting with Stonewall (UK 31 March 2008) UK

<sup>266</sup> Fieldwork meeting with Inter-LGBT and L'Autre Cercle, (France, 10 March 2008)

<sup>267</sup> For example: National Institute for Working Life. Arbetsvillkor och utsatthet, Arbetslivsinstitutet 2003. Sweden; M. Jenett (2004) ‘Stand up for us: Challenging homophobia in schools’, Yorkshire: Crown Copyright

"Things weren't going right and I felt wasted and I felt that I should pull the plug, if I could. That was really the main big issue - me being gay and family not accepting it. And I just felt that, well, if I was out of their way they would never have to worry about me.' (Male, **United Kingdom**)<sup>268</sup>

In **Italy**, a 16-year-old student at a technical school in Turin committed suicide. The victim had endured torment from his school mates over several years for being "too girlish".<sup>269</sup>

In general, interviews with LGBT NGOs suggest that LGBT persons are at higher risk of poor health than their heterosexual peers. The LGBT NGO *Holebifederatie* in **Belgium** emphasised that the mental health of LGBT persons is a constant concern and a high proportion of LGBT persons suffer from depression.<sup>270</sup> A further study will be commissioned to examine issues of health and suicide among young lesbian women.<sup>271</sup> The assessment of *Holebifederatie* is confirmed by several reports referring to LGBT persons as a vulnerable group on a number of health indicators. For example, according to a **Belgian** study, LGB persons are twice as likely to suffer from a chronic disease.<sup>272</sup>

Research in the **United Kingdom** showed that 20 per cent of the lesbian and bisexual women surveyed had deliberately harmed themselves compared to 0.4 per cent of the general population, and 16 per cent of respondents under the age of 20 had attempted suicide, compared to 0.12 per cent of the total population under 18 (according to an estimate from ChildLine); concerning cancer screening 15 per cent of lesbian and bisexual women over the age of 25 have never had a cervical smear test, compared to 7 per cent of women in general; less than 50 per cent of the lesbian and bisexual women surveyed had been screened for sexually transmitted infections.<sup>273</sup>

**LGBT Mental Health Survey:** The Irish LGBT NGO *GLEN*, in collaboration with the *BeLonG To Youth Project*, commissioned researchers from Trinity College Dublin and University College Dublin to conduct the first major study

<sup>268</sup> The Equality Authority and the Health Service Executive (2007) 'Recognising LGB Sexual Identities in Health Services, The Experiences of Lesbian, Gay and Bisexual People with Health Services in North West Ireland', p. 66

<sup>269</sup> OSCE/ODIHR (2008) 'Hate Crimes in the OSCE Region - Incidents and Responses'. Annual Report for 2007, p. 110. Mentioned in the European Parliament resolution of 26 April 2007 on homophobia in Europe, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0167+0+DOC+XML+V0//EN&language=EN> (06.10.2008)

<sup>270</sup> Fieldwork meeting with Holebifederatie and Arc-en-ciel (Belgium 3 April 2008)

<sup>271</sup> Fieldwork meeting with Ministry of Education (Belgium 4 April 2008)

<sup>272</sup> K. Heeringen and J. Vincke, 'Suicidal acts and ideation in homosexual and bisexual young people: a study of prevalence and risk factors', *Social Psychiatry and Psychiatric Epidemiology* 35(11): 494-499

<sup>273</sup> R. Hunt and J. Fish (2008) 'Prescription for Change. Lesbian and bisexual women's health check' Stonewall

of LGBT mental health and well-being in **Ireland** funded by the National Office for Suicide Prevention. The study aims to identify risk and resilience factors for LGBT mental health and suicide and to develop a best practice model for LGBT mental health promotion and suicide prevention.<sup>274</sup>

Findings from a survey of the **Swedish** National Institute for Public Health<sup>275</sup> show that the vast majority of LGBT persons (lesbian, gay, bisexual and transgender persons) are in good health. However, a significantly larger proportion of LGBT persons were in poorer health than the rest of the population. Mental health in particular was significantly worse. The differences in health were also considerable among LGBT persons. Almost without exception, transsexuals had the worst health, followed by bisexuals and lesbian/gay persons. Furthermore, the survey showed that it is much more common among LGBT persons to have contemplated suicide. The **Irish GLEN Mental Health Report** showed similar results.<sup>276</sup>

## Conclusions

Discrimination and homophobia/transphobia exists in health care systems. However, their prevalence is difficult to determine, as the lack of visibility of LGBT persons' sexual orientation often renders the problem invisible. Studies and interviews with LGBT NGOs and National Equality Bodies show a mixture of positive and negative reactions from health personnel upon disclosure of sexual orientation. Negative responses include advising LGB patients to seek psychiatric help. The most positive responses provide LGB-relevant information and reassure confidentiality and acceptance of the patient's LGB status.

Due to fear of discrimination, among other factors, LGBT patients may avoid seeking care, behaviour which may itself lead to health risks. Existing research correlates experiencing homophobia, transphobia, harassment or marginalisation with the general poorer mental and physical health of LGBT persons. The LGBT NGOs and public authorities interviewed report higher rates of poor mental health, suicide and substance abuse among LGBT persons. There is a need for more research on the health of LGBT persons.

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<sup>274</sup> Ireland, country report

<sup>275</sup> Swedish National Institute for Public Health (2006) Health on Equal Terms, available at [http://www.fhi.se/upload/ar2006/Rapporter/r200608\\_HBT\\_web.pdf](http://www.fhi.se/upload/ar2006/Rapporter/r200608_HBT_web.pdf) (12.01.2009)

<sup>276</sup> 2003 GLEN Mental Health Report (published in conjunction with the former Northern Area Health Board)

## Religious institutions

It was reported in interviews with LGBT NGOs that in several Member States, including **Cyprus**,<sup>277</sup> **Greece**,<sup>278</sup> **Latvia**,<sup>279</sup> **Lithuania**,<sup>280</sup> **Italy**,<sup>281</sup> **Poland**<sup>282</sup> and **Romania**,<sup>283</sup> church representatives, particularly from Orthodox and Catholic denominations, engage in political debate concerning LGBT rights, often mobilising and lobbying against the adoption of such rights. On the other hand, Jewish and Muslim figures and institutions were not found to play a significant role in anti-LGBT mobilisation or political debates regarding LGBT rights in any of the Member States.

For example, in **Lithuania**, the church has taken a position against LGBT rights. The Minister of Social Affairs and Labour stated<sup>284</sup> in Parliament that the inclusion of amendments to the Law on Equal Treatment (implementing the Employment Framework Directive 2000/78/EC) weakening protection for LGBT persons was discussed and approved by the Lithuanian Bishop's Conference, and MPs argued against anti-discrimination legislation by referring to 'the Christian traditions of Lithuania'. The Orthodox Church in **Romania** has lobbied for a change in the Constitution to deny the possibility of same-sex marriage.<sup>285</sup> LGBT NGOs in **Italy**<sup>286</sup> and **Poland**<sup>287</sup> said during interview that they consider the Catholic Church as one of the key political actors against new LGBT rights legislation.

### Diversity and discrimination in religious organisations

In **Finland**, a study<sup>288</sup> based on interviews with ten employees of the Evangelical Lutheran Church who identified themselves as gay, lesbian or bisexual, found that although the general move towards a more open social climate and the ongoing debate around the status of sexual minorities within the

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<sup>277</sup> Fieldwork meeting with Cyprus Gay Liberation Movement (10 April 2008)

<sup>278</sup> Fieldwork meeting with the LGBT NGO OLKE, (14 April 2008)

<sup>279</sup> Fieldwork meetings with the LGBT NGO Mozaika and Tiesībsarga birojs [the Ombudsman's Office] (Latvia, 12 March 2008)

<sup>280</sup> Fieldwork meeting with Lithuanian Gay League (13 April 2008)

<sup>281</sup> Fieldwork meeting with Arcigay/Arcilesbica (Italy, 5 March 2008)

<sup>282</sup> Fieldwork meeting with Campaign Against Homophobia (Poland, 17 March 2008)

<sup>283</sup> Fieldwork meeting with the LGBT NGO ACCEPT (Romania, 7 April 2008)

<sup>284</sup> Parliament sitting September 18, 2007, stenograph available at [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=304466](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=304466) (14.02.2008)

<sup>285</sup> Romania, country report

<sup>286</sup> Fieldwork meeting with Arcilesbica and Arcigay (Italy, 5 March 2008)

<sup>287</sup> Fieldwork meeting with Campaign Against Homophobia (Poland, 17 March 2008)

<sup>288</sup> K. Valve (2004) 'Vocation and the Everyday - Lesbian, Gay and Bisexual Employees: Experiences in Different Work Communities Within the Church', in J. Lehtonen, K. Mustola (eds.) "'Straight people don't tell, do they...?'" Negotiating the boundaries of sexuality and gender at work', Helsinki: Ministry of Labour, available at [http://www.esr.fi/esr/fi/\\_yleiset/researchreport2b04.pdf](http://www.esr.fi/esr/fi/_yleiset/researchreport2b04.pdf) (04.02.2009)

Church was leading church employees to consider the possibility of leading an open life, at the same time, public debate has created pressure and made people fearful of taking a stand: “The risk of being stigmatised or discriminated against is present in many of the daily situations involving discussion about the status of lesbian, gay and bisexual people within the Church.”<sup>289</sup>

In **Sweden**, the Association of Parishes and Pastorates of the Church of Sweden together with EKHO (Swedish Ecumenical Association of Christian Lesbians, Gays, Bisexuals and Transgendered People) participated in the EQUAL project “Normgiving Diversity” focusing on three professions with a normative standard-setting function in society: the police, the church and the army in an attempt to promote awareness of sexual diversity among employees in the long term.<sup>290</sup>

In some Member States, the exemption for employers to be able to discriminate against employees who do not 'act in good faith and with loyalty to the organisation's ethos' are interpreted by religious organisations in ways that include sexual orientation. As the Commission has noted, “[m]any of the difficulties encountered in implementing the sexual orientation provisions of the Employment Equality Directive relate to the breadth of any exceptions applying to employers with a religious ethos... These exceptions are sensitive because some employers may be hostile to homosexuality because of religious beliefs.”<sup>291</sup>

In **Germany**, *Kolpingwerk*, a Catholic social organisation with a focus on education (in children’s homes and youth centres, among others), which is exempt from the anti-discrimination law as a denominational organisation, dismissed a 53-year-old gay employee after his sexual orientation was discovered.<sup>292</sup> In **the Netherlands**, the Dutch Equal Treatment Law contains similar exemptions for employment for associations based on religion or belief. These associations may impose requirements on the occupancy of a post which, in view of the organisation's purpose, are deemed necessary to live up to its founding principles. The Equal Treatment Law stipulates that such requirements may not lead to distinction on the sole grounds of political affinity, race, sex, nationality, heterosexual or homosexual orientation or civil

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<sup>289</sup> K. Valve (2004) ‘Vocation and the Everyday - Lesbian, Gay and Bisexual Employees: Experiences in Different Work Communities Within the Church’, in J. Lehtonen, K. Mustola (ed.) “‘Straight people don't tell, do they...?’ Negotiating the boundaries of sexuality and gender at work’, Helsinki: Ministry of Labour, available at [http://www.esr.fi/esr/fi/\\_yleiset/researchreport2b04.pdf](http://www.esr.fi/esr/fi/_yleiset/researchreport2b04.pdf) (04.02.2009)

<sup>290</sup> See [http://ec.europa.eu/employment\\_social/equal/news/20051026-sweden\\_en.cfm](http://ec.europa.eu/employment_social/equal/news/20051026-sweden_en.cfm) (6.02.2009). In 2005, this project merged into a new cooperation funded by EQUAL with more organizations entitled *All Clear* with the objective to create a work environment where everyone is respected, regardless of their sexual orientation.

<sup>291</sup> European Commission, ‘Developing Anti-Discrimination Law in Europe: The 25 EU Member States Compared’ pp. 24, 54, available through <http://bookshop.europa.eu>.

<sup>292</sup> Welt Online (2006) *Fristlose Kündigung wegen Homosexualität*. 24 November 2006. Available at: [http://www.welt.de/vermischtes/article96880/Fristlose\\_Kuendigung\\_wegen\\_Homosexualitaet.html](http://www.welt.de/vermischtes/article96880/Fristlose_Kuendigung_wegen_Homosexualitaet.html) (28.07.2008)

status, but the requirements may be based on 'additional circumstances' which are not further specified. The EU has criticised these justification grounds, in reaction to which the *Commissie Gelijke Behandeling* [the Equal Treatment Commission] has proposed that these provisions should be restated.<sup>293</sup>

Fieldwork in **Latvia** revealed that the Lutheran Church has, on two occasions, excommunicated ministers for their dissenting views on homosexuality and LGBT rights. One minister revealed that he was gay and publicly expressed the view that homosexuality was not a sin and did not contradict Christianity. He was excommunicated for promotion of sinful behaviour. Another minister, at the time the dean of the University of Latvia's faculty of theology, was excommunicated after criticising the Church's action in the above mentioned case. He now serves as an Anglican pastor in a small Anglican congregation in Riga - the only established religious denomination in Latvia supportive of LGBT rights.<sup>294</sup>

In **Ireland**, religious bodies own and manage the vast majority of primary schools and a significant number of secondary schools. This might contribute to the invisibility of homosexuals and bisexuals in schools. Religious bodies also own and manage a significant number of hospitals and health services. Section 37 of the Employment Equality Act exempts religious bodies and services in cases where discrimination is demonstrated as necessary to preserve the ethos of the religious body, but this exemption has never been tested in court. In **Hungary**, the theological faculty of Karoli Gaspar Calvinist University has a policy that bars students following a 'homosexual way of life' from being educated as pastors or religion teachers. The Supreme Court of Hungary has ruled in favour of the faculty and decided that it was permissible to exclude lesbians and gay men.<sup>295</sup>

The promotion of diversity regarding sexual orientation is often difficult in environments controlled by religious organisations hostile to LGBT issues. For example, in **Malta**, where the Catholic Church administers around one-third of the schools, according to the National Minimum Curriculum 'teachers must keep in mind the context of the moral and religious values of the students and their parents'. In this context the Maltese Gay Rights Movement (MGRM) has reportedly been barred from disseminating leaflets or education materials that present LGBT issues.

However, there are also examples of religious institutions across the European Union that have a different approach to LGBT persons and issues. For example, in the **Netherlands** by 1995 the synod of the Netherlands Reformed Church

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<sup>293</sup> Advisory opinion on the letter of formal notice to the Netherlands from the European Commission in connection with the incorrect transposition of Directive 2000/78/EC; CGB Advisory opinion/2008/02, March 2008

<sup>294</sup> Fieldwork meeting with the Ombudsman's Office, (12 March 2008)

<sup>295</sup> S. Quinn, E. Paradis (2007) 'Going Beyond the Law: promoting equality in employment', Brussels: ILGA-Europe

had already issued a statement that members of the church have equal rights, regardless of their sexual orientation or way of life.<sup>296</sup> In 1990 the synod of Emmen of the Reformed Churches in the Netherlands “called on all congregations to accept homosexual members, in office too”. In 1995 the Lutheran synod of the Protestant Church in the Netherlands decided to bless these homosexual relationships in the church, as well as stating that there are no theological arguments ‘against blessing two people in their promise of lasting friendship, devotion, and faithfulness’.

In **Finland**, reportedly since 1999 the Kallio parish (Kallion seurakunta) in Helsinki has embraced “rainbow people” and the “Rainbow Masses” have been held in connection with Gay Pride events in Vaasa, Helsinki and Tampere.<sup>297</sup> An ecumenical group called *Yhteys* (alliance) is working to promote more liberal attitudes towards sexual and gender minorities within the Church. In **Sweden**, as was mentioned earlier the Church participated in the 2008 Pride event.

## Conclusions

In some Member States religious institutions and organisations often engage in political debates concerning LGBT rights, lobbying against the adoption of such rights and thus hampering new legislation in this area. Some religious groups and figures in some Member States are also active in mobilising demonstrations against LGBT events.

In some Member States the church owns and administers a significant number of schools, social services and community centres used for public debates or events. LGBT NGOs have been denied access to such premises and have been barred from disseminating information on LGBT issues or participating in political debates.

Exemptions in anti-discrimination legislation, allowing employers to discriminate against employees who do not 'act in good faith and with loyalty to the organisation's ethos' are interpreted in ways that result in discrimination of LGBT persons in some Member States.

There are also some positive examples of religious organisations engaging with LGBT persons.

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<sup>296</sup> See <http://www.protestantchurch.nl/default.asp?inc=info&rIntId=1649> (06.02.2009)

<sup>297</sup> See <http://kallio.kirkkohelsinki.net/?deptID=2590&searchword=Yhteys> (07.02.2009)

## Sports

This section addresses the difficulties of practising sports as an open LGBT person and the use of homophobic jargon and slander in professional and non-professional sport settings.

### Homophobia in sports

The majority of country reports note the paucity of quantitative or qualitative research on homophobia in sport. The limited information available suggests, though, that homophobia is present in a number of sport contexts and that there are significant challenges related to being an openly LGBT person in sport. Existing research and data focus largely on professional football.

Homophobic football slogans chanted by fans in order to ridicule the referee or the opposing team occur in almost every mainstream football event.<sup>298</sup> In the **United Kingdom**, the example of a football player who during a match used homophobic verbal abuse against the referee is not atypical.<sup>299</sup>

In **Italy**, the NGOs *Arcigay* and *Arcilesbica* noted during interviews that anti-LGBT statements are routinely present in football fan culture, with neo-fascist groups represented in several fan clubs and hooligan groups.<sup>300</sup>

The country report for the **United Kingdom** contained no information on any openly gay professional footballers currently in Britain, but reportedly gay footballers have been advised to maintain a heterosexual image.

'I think it would be easier and better accepted to come out as homosexual in the political party I'm active in than in sports. In sports, masculinity is still the ideal. When I played soccer when I was younger, it was important to distinguish yourself from the 'sissies' and the 'fags'. (Male, former tennis coach, **Sweden**)<sup>301</sup>

In **Germany** the *Deutscher Fußball Bund* [German Football Confederation] launched a campaign entitled '*Football and Homophobia*' and signed a declaration against discrimination on grounds of sexual orientation in 2007.<sup>302</sup>

<sup>298</sup> T. Walther (2006), 'Kick It Out: Homophobia in Football', European Gay and Lesbian Sport Federation (ed). Berlin, Amsterdam

<sup>299</sup> See <http://www.guardian.co.uk/commentisfree/2006/sep/28/paulscholesandantigayabuse> (08.08.2008)

<sup>300</sup> Fieldwork meeting with Arcigay and Arcilesbica (Italy 5 March 2008)

<sup>301</sup> RFSL (2007) All Clear 2.0, Gay, Lesbian, Bi & Hetero at Work, p. 55

<sup>302</sup> Germany, country report



According to the European Gay and Lesbian Sports Federation (EGLSF), founded in 1989 with the aim of fighting discrimination in sport and supporting the coming out of gay and lesbian athletes, it is not easy to come out in a non-professional sports group in Europe. Although the experiences of LGBT persons vary in different Member States, there are numerous accounts of LGBT persons feeling harassed and rejected by their fellow club members.<sup>303</sup>

Interviews revealed that in **Finland**, the Sports Federation published a guide *Involved and Visible: Sexual and Gender Minorities in Sports and Physical Activities* in three languages, Finnish, Swedish and English.<sup>304</sup>

### LGBT visibility in sports

As reported by *Outsports.com*, at the last Beijing 2008 Olympics only 10 out of 10,708 athletes were openly gay or lesbian.<sup>305</sup> In the stakeholder e-survey 41 per cent stated that there was 'no opportunity' or a 'low level of opportunity' to be 'out' as LGBT even in non-professional sport.

'Those who do play at a high level are usually in denial of their sexuality in order to gain grants/scholarships etc. Being a known lesbian in sport in **Ireland** I think would limit all types of support...both financial and social.' (Female, Ireland)<sup>306</sup>

According to the Irish Equality Authority, LGBT athletes are largely invisible, creating a de facto absence of LGBT role models in professional sport.<sup>307</sup> During interview the NGOs *Arcigay* and *Arcilesbica* also noted the very low visibility of LGBT persons in sports in **Italy**.<sup>308</sup>

A poll conducted in **Sweden** indicated that there is limited focus on identifying and tackling homophobia in sports.<sup>309</sup> A project funded by the Swedish Ministry of Industry polled 40 sports associations in Sweden and found that most had never discussed the issue of homophobia or the situation for LGBT people in their association. The majority also answered that they did not have any openly LGBT people in their association and did not have a policy or an action plan on the matter.

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<sup>303</sup> See <http://www.eglsf.info/eglsf-about.php> (10.08.2008)

<sup>304</sup> Fieldwork meeting with the Ministry of Employment and Economy, the Ministry of Education and the Ministry of the Interior (Finland, 4 March 2008)

<sup>305</sup> See <http://www.outsports.com/os/index.php/Olympics/2008/In-Beijing-Olympics-only-5-openly-gay-athletes.html> (25.01.2009)

<sup>306</sup> L. Greene (2007) 'Lesbian Athletes and Their Experiences of Gender and Sexuality in Competitive Sports in Ireland (1980-2007)', University College of Dublin: College of Human Sciences.

<sup>307</sup> Fieldwork meeting with the Equality Authority, (Ireland 4 April 2008)

<sup>308</sup> Fieldwork meeting with Arcigay and Arcilesbica (5 March 2008)

<sup>309</sup> See <http://www.homo.se/o.o.i.s/3950> (14.08.2008)

## Combating homophobia in sports

In the United Kingdom the LGBT NGO Stonewall suggested that efforts to combat homophobia in sport settings have gained little attention and that combating racism in football was given priority when targeting equality and discrimination in professional football.<sup>310</sup>

In 2003 the Council of Europe's Parliamentary Assembly addressed the issue of homophobia in sports: 'The Assembly believes that homophobia in sport, both among participants and in their relations with spectators, should be combated on the same grounds as racism and other forms of discrimination.'<sup>311</sup>

**Partnerships developing education programmes:** From 2007 the **Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights (RFSL)** and *HomO* [the Ombudsman against Discrimination on grounds of Sexual Orientation Discrimination] have worked on a project with the *Riksidrottsförbundet* [National Sporting Federation] and *SISU*, an education organisation within sport. The project aims to educate coaches on LGBT issues. *RFSL* and *SISU* plan to develop education programmes and offer them to sports clubs. Meanwhile, *Riksidrottsförbundet* is designing and conducting studies on LGBT issues in sports.<sup>312</sup>

Certain initiatives supported by the European Commission's PROGRESS programme could contribute significantly in changing attitudes in sport. Examples include the 'Run for Diversity' campaign which allows runners in particular marathons to wear EU anti-discrimination sports apparel to promote awareness of and express their feelings against discrimination.<sup>313</sup>

**In Germany** the hostile atmosphere in football has led lesbians and gays to create their own non-professional clubs.<sup>314</sup> LGBT persons have established their own sports associations also in other Member States. The annual European Gay and Lesbian Sports Championships (Eurogames) as well as Outgames are other examples of LGBT sports events.<sup>315</sup>

**Cooperation between sports clubs and human rights organisations:** It was discovered through interviews that in **France**, the football club *Paris Saint Germain* is cooperating with the gay football club *Paris Foot Gay* and *Ligue Internationale Contre le Racisme et l'Antisémitisme* [The International League

<sup>310</sup> Fieldwork meeting with Stonewall (UK 31 March 2008)

<sup>311</sup> Recommendation 1635 (2003), Lesbians and gays in sport, Text adopted by the Standing Committee, acting on behalf of the Assembly, on 25 November 2003

<sup>312</sup> Sweden, country report.

<sup>313</sup> See <http://www.stop-discrimination.info/56.0.html> (12.01.2008)

<sup>314</sup> Germany, country report; see also <http://www.queer-footballfanclubs.com> (20.03.2008)

<sup>315</sup> <http://www.eurogames.info/eurogames-welcome.html> and [www.copenhagen2009.org](http://www.copenhagen2009.org) (08.08.2008)

against Racism and Anti-Semitism] to develop a policy on preventing and combating discrimination, with a focus on homophobia.<sup>316</sup>

## **Conclusions**

Data on homophobia in sport largely focuses on professional football. In the context of football, homophobia is expressed in fan culture and among footballers, with homophobic language commonly used at football events to ridicule opponents or referees. A prominent finding in the area of sport is the lack of LGBT visibility. LGBT persons are perceived to have low levels of opportunity to be 'open' in sport due to risk of harassment, homophobia or rejection from fellow club members.

Most sports associations give homophobia low priority on the anti-discrimination agenda, particularly compared with efforts to reduce racism.

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<sup>316</sup> Fieldwork meeting with Inter LGBT and L'Autre Cercle (France 10 March 2008)

## Media

This section examines how LGBT persons and their lives are represented and portrayed in the media across the EU. Media in this context covers public and private media,<sup>317</sup> as well as visual and written media, for example the Internet, newspapers and television.

### Homophobic discourses in the media

Incidents of homophobic discourse appearing in the media were identified in interviews with LGBT NGOs in **Italy** and **Poland** and the National Equality Body in **Latvia**, among others.<sup>318</sup> A recent survey of the portrayal of lesbian, gay, bisexual and transgender people in the **Scottish** Press found that newspapers seem to be prepared to print letters containing a level of homophobic abuse which would not be accepted if it were racist.<sup>319</sup> A study in **Lithuania** found that some journalists use homophobic language.<sup>320</sup>

Together with the European Broadcasting Union, the Lithuanian Gay League developed a *Guide for better media reporting on LGBT issues*. The Guide provides journalists and activists with easily applicable tools to improve positive reporting on LGBT issues. As a result, a closer cooperation with the media has been achieved resulting in more balanced articles and information about LGBT persons in the media.<sup>321</sup>

### Representations of LGBT persons in the media

In the stakeholder e-survey respondents were asked to assess the representation of LGBT persons in the media and whether showing LGBT persons as a diverse group was regarded as nuanced, as opposed to stereotypical. Only fourteen per cent of respondents considered that the media present a 'nuanced' or 'somewhat nuanced' description of LGBT persons.

Most LGBT NGOs interviewed during the fieldwork reported that LGBT issues are not often presented in the media, which, in varying degrees, tends to simplify, sensationalise and stereotype LGBT persons and issues. When

<sup>317</sup> While investigating homophobia in media discourses it has not been possible to distinguish between public and private media.

<sup>318</sup> Fieldwork meeting with ARCIGAY and ARCILESICA (AL) (Italy 5 March 2008), Campaign against Homophobia (Poland 17 March 2008) and with Mozaika (Latvia 12 March 2008, the Ombudsman's Office (Latvia 12 March 2008)

<sup>319</sup> Stonewall (2007) 'Written Out: The Scottish Press' portrayal of lesbian, gay, bisexual and transgender people', Scotland, available at [http://www.stonewallscotland.org.uk/documents/stonewall\\_written\\_out.pdf](http://www.stonewallscotland.org.uk/documents/stonewall_written_out.pdf) (05.02.2009)

<sup>320</sup> A. A. Tereskinas (2007) "'Not Private Enough": Homophobic and injurious speech in the Lithuanian Media', available at <http://www.lgl.lt/projektaie.php?pid=35> (05.02.2009)

<sup>321</sup> See [http://www.ilga-europe.org/europe/funding\\_capacity\\_building/working\\_with\\_media](http://www.ilga-europe.org/europe/funding_capacity_building/working_with_media) (17.10.2008)

interviewed, representatives from the LGBT NGO *CIGALE* in **Luxembourg** indicated that the media tend to avoid intellectual and political LGBT issues and instead focus on superficial issues, for example how LGBT persons dress at Pride events.<sup>322</sup> Interviews with the LGBT NGO Campaign Against Homophobia report that in **Poland** some newspapers and Catholic TV and radio stations are openly homophobic, but note that media depicting a neutral picture of LGBT persons and issues also exist.<sup>323</sup>

The Office of the Ombudsman in **Latvia** indicated that media channels range from positive to negative. A free newspaper handed out at bus stations, for example, contained homophobic statements.<sup>324</sup> This has resulted in the LGBT NGO *Mozaika* filing a complaint regarding hate speech. In interview with representatives from *Landsforeningen for Bøsser og Lesbiske* [The **Danish** Association for Gays and Lesbians], it was said that the media discourse on LGBT issues is dominated by stereotypical images and illustrations. Even serious articles regarding homosexual rights are illustrated with pictures of semi-clothed men from the Copenhagen Pride Parade.<sup>325</sup>

These observations are supported by some research findings showing that homosexuality is, in varying degrees, still considered taboo and consequently attracts very little media attention. In a **German** study of LGBT representations on television, 63 per cent of the LGBT respondents thought that any depiction of non-heterosexuality is still taboo.<sup>326</sup> A **Belgian** study found virtually no media coverage of transgender issues, other than references to medical issues or problems.<sup>327</sup> This appears to be common theme across the EU. However, a **Portuguese** study suggests that, within the last decade, such visibility has increased in the country's media, noting that lesbians and bisexuals are practically invisible and under-represented, when compared to representations of gay men.<sup>328</sup>

Some studies also refer to distorted representations of LGBT persons. A comprehensive media analysis in **Slovenia** examined print media from 1970-2000 and identified phenomena of *stereotyping* - relying on rigid gender schemes presenting gay men as effeminate and lesbians as masculine; *medicalisation* - consigning homosexuality to the medical and psychiatric spheres and searching for causes; *sexualisation* - reducing homosexuality to

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<sup>322</sup> Fieldwork meeting with CIGALE (Luxembourg 7 April 2008)

<sup>323</sup> Fieldwork meeting with Campaign Against Homophobia (Poland, 17 March 2008)

<sup>324</sup> Fieldwork meeting with Office of the Ombudsman, (Latvia, 12 March 2008)

<sup>325</sup> Fieldwork meeting with LBL (Denmark, 26 April 2008)

<sup>326</sup> V. Jung, (2003). 'Darstellung von Homosexualität in TV-Unterhaltungssendungen'. [Thesis]. Bamberg: University of Bamberg.

<sup>327</sup> A. Dewaele and D. Paternotte. (2008) 'The situation concerning homophobia and discrimination on grounds of sexual orientation in Belgium'. Anvers/Bruxelles: Steunpunt Gelijkekansenbeleid (Consortium Universiteit Antwerpen & Universiteit Hasselt)/Université libre de Bruxelles

<sup>328</sup> Caldeira (2006) 'A Representação das Minorias Sexuais na Informação Televisiva Portuguesa', Lisboa: Livros Horizonte

sexual practices; *secrecy* - making homosexuality appear as concealed and related to shame and regret; and *normalisation* – making homosexuals appear as heterosexuals in order to make homosexuality less threatening and politicised.<sup>329</sup>

The Scottish survey by Stonewall Scotland mentioned previously in this section noted that press coverage often reinforces the view that sexual orientation is all and only about sex, while in crime reports the sexual orientation of the perpetrator is emphasised, even if it has no relevance to the crime committed.

**In the United Kingdom** the independent Press Complaints Commission, an independent body that deals with complaints about the editorial content of newspapers and magazines, expanded Clause 12 (Discrimination) of its Code to cover discriminatory press reporting of transgender people in May 2005. Under the new Clause the press must avoid prejudicial or pejorative reference to an individual's race, colour, religion, gender, sexual orientation or to any physical or mental illness or disability.<sup>330</sup>

Research on LGBT representation in **Portuguese** and **German** media also found that LGBT representations tend to be simplified and non-representative, and though German print media and websites draw a more nuanced picture, mainstream television still uses clichés and stereotypes.<sup>331</sup>

### **Positive trends in media representations of LGBT people**

Studies have also identified positive developments in terms of an increased presence and a more nuanced presentation of LGBT persons and issues in the media. A study<sup>332</sup> in the **Czech Republic** found that while in the first half of the 1990s negative stereotyping, sexualisation and comedic or criminal contexts were dominant factors in LGBT representation, during the last decade LGBT persons increasingly appear in documentaries and television series in the context of everyday social life.

The **Spanish** country report noted that most media now offer nuanced coverage on significant political and social LGBT events such as Gay Pride celebrations,

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<sup>329</sup> R. Kuhar (2003) 'Media Representations of Homosexuality: An Analysis of Print Media in Slovenia, 1970-2000', Mediawatch: Ljubljana. Available at: <http://mediawatch.mirovni-institut.si/eng/mw13.htm> (05.02.2009)

<sup>330</sup> Information provided by Transgender Europe at consultative roundtable on combating homophobia and transphobia in the EU, June 2008, Copenhagen.

<sup>331</sup> T.L. Monteiro, V. Policarpo, F.V. da Silva (2008) 'The situation concerning homophobia and discrimination on grounds of sexual orientation in Portugal, Country Report'; Walters, S. D. (2001), 'Take my Domestic Partner, Please: Gays and Marriage in the Era of the Visible', in M. Bernstein & R. Reimann (eds.), 'Queer families, Queer Politics: Challenging Culture and the State' (p. 338-357), New York: Columbia UP

<sup>332</sup> Working Group for the Issues of Sexual Minorities of the Minister for Human Rights and National Minorities (2007) Analysis of the Situation of Lesbian, Gay, Bisexual and Transgender Minority in the Czech Republic. Government of Czech Republic

landmark judicial rulings or significant laws passed by Parliament, and that homophobic representations are rare. The **Swedish** country report also noted that media are giving a more accurate picture of the diversity within the LGBT community, while in **Lithuania**, the coverage of serious LGBT topics has increased in recent years.<sup>333</sup>

In **Denmark**, the Public Service Contract between the Minister of Culture and Danmarks Radio (Danish Broadcasting Corporation) sets an explicit goal to reflect diversity and contains an anti-discrimination clause with reference to LGBT representation and issues: 'DR shall offer a broad societal coverage of Denmark and thus reflect the diversity of culture, outlook on life and living conditions found in different parts of the country [...] The programs must not in any way incite hatred on grounds of race, gender, religion, nationality or sexual orientation.'<sup>334</sup>

The presence of visible positive LGBT role models in the media is clearly very important. Such role models are increasingly prevalent in some Member States, both from the political and cultural sphere. An illustrative example is the case of the Mayor of Berlin, Klaus Wowereit, for example, who also served as President of the German Parliament in 2001/02. His well known public statement was: 'I am gay—and that's fine!' ('Ich bin Schwul – und das ist gut so!').

In **Greece**, LGBT groups strongly protested a ruling of the National Council of Radio and Television, the country's independent public authority, imposing a 100,000 Euro fine on Mega Channel, a major television channel for showing two male characters kissing on a popular TV serial. In December 2006, the country's supreme administrative court annulled this decision ruling that the fine was unconstitutional, since the scene simply reflected the 'social reality of one social group, among many that make up an open and democratic society, whose sexual preferences are not to be condemned'.

At the EU-level, initiatives such as the European Commission's collaboration with the music channel MTV including an advertisement spot, a Creative Competition, targeting younger audiences in relation to race discrimination, as well as the annual journalist award which rewards journalists who contribute to a better understanding of diversity and problems of discrimination, represent valuable measures in both using the media to change public attitudes and encouraging those working in the media to re-examine their portrayal of those belonging to particular social groups and minorities.<sup>335</sup>

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<sup>333</sup> A. Tereskinas (2007) "'Not Private Enough": Homophobic and injurious speech in the Lithuanian Media'

<sup>334</sup> The Public Service Contract between the Danish Broadcasting Corporation (DR) and The Minister of Culture 2007-2010: 2

<sup>335</sup> See <http://www.stop-discrimination.info/99.0.html> (11.12.2008)

## **Conclusions**

Incidents of homophobic speech can still be found in the media across the EU and homosexuality is still considered, in varying degrees, a taboo. LGBT persons in general lack media visibility, although gay men are more visible than lesbians or transgender persons.

LGBT persons are also subject to various forms of media stereotyping. The use of semi-erotic illustrations on articles covering topics of great concern to LGBT persons contribute to prejudice and reinforce the idea that sexual orientation is only about sexual activity and preferences. Journalists across the EU would benefit from a better understanding of LGBT issues in order to report in a representative and balanced way.

However, there is also evidence that things are slowly changing and already some studies note an increase in media depictions across the EU that include a more nuanced and informed perspective on LGBT persons and issues.



# Asylum

Information and data in this area is scarce, but existing research and information collected through the fieldwork highlight two areas of concern, the treatment of sexual orientation and gender identity in asylum procedure and the conditions for LGBT asylum seekers in asylum centres.

## The general framework regarding asylum

A more detailed analysis of the general legislative framework regarding sexual orientation and gender identity in the context of asylum and subsidiary protection can be found in the FRA's Legal Analysis,<sup>336</sup> which notes that in accordance with the 1951 Convention on the Status of Refugees (Art.1A(2)), and the Council Directive 2004/83/EC, LGBT persons seeking asylum due to persecution on grounds of sexual orientation in the EU Member States can be recognised as refugees as belonging to 'a particular social group'.<sup>337</sup>

The legal framework in the EU Member States thus provides for the possibility that LGBT persons persecuted on grounds of sexual orientation or gender identity are recognised as refugees and granted asylum. Subsequently, several LGBT persons have been granted asylum on these grounds in EU Member States.

The available data shows that asylum has been granted to LGBT persons in **Austria, Belgium, Denmark, France, Germany, Greece, Hungary, Italy, Luxembourg, the Netherlands, Poland, Portugal, Spain, Sweden, Czech Republic** and the **United Kingdom**. However, this list is not necessarily exhaustive, since no Member State provides a statistical overview of the number of cases where asylum is granted on grounds of sexual orientation or gender identity. In some Member States (for example **Cyprus, France, Germany** and **Slovakia**) official figures do not exist, and immigration authorities in **Estonia** and **Latvia**<sup>338</sup> state that there have been no asylum claims on grounds of sexual orientation or gender identity.

In other Member States data indicate the existence of a number of cases. In **Belgium** at least 116 cases were handled in 2006 (and 33 persons were granted

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<sup>336</sup> European Union Agency for Fundamental Rights, (2008) 'Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States: Part I - Legal Analysis'. pp. 83-98

<sup>337</sup> With Denmark as the exception, as Denmark does not recognise homosexuals or transgender persons as 'particular social groups', insofar as the immigration authorities do not operate with the category of 'particular social group' in legal practice. However, it is possible to grant a residence permit with 'protection status' if the immigration authorities determine a 'risk of execution or inhuman or degrading treatment in the country of origin', cf European Union Agency for Fundamental Rights, (2008) 'Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States: Part I - Legal Analysis'

<sup>338</sup> In Estonia: The Citizenship and Migration Board. In Latvia: The Office of Citizenship and Migration

refugee status) and at least 188 in 2007 (and 60 persons were granted refugee status).<sup>339</sup> In **Sweden**, *Migrationsverket* [The Swedish Migration Board] estimated in 2002 the number of asylum applicants on grounds of sexual orientation or gender identity to be approximately 300 per year. The Swedish Parliament decided in 2005 that people at risk of persecution on the basis of sex or sexual preference could be granted refugee status (Government Bill 2005/06:06).<sup>340</sup>

### *Sexual orientation and gender identity in the application procedure*

Studies<sup>341</sup> indicate that the information about sexual orientation, gender identity and conditions for LGBT persons in their country of origin contained in the country of origin reports, used in refugee status determination procedures, is often very limited. They also highlight that a key issue in the asylum application procedures concerns the credibility of the asylum seeker. In cases regarding persecution on grounds of sexual orientation, this feature in itself becomes a question of critical inquiry, and several accounts report that those processing asylum claims “often do not believe that an asylum seeker is really LGBT”. There are at least two reasons for this. First, certain identities, expressions and practices are perceived to be more credible than others. As an example from **Denmark** shows, changing sexual preferences or bisexuality can be suspicious:

'And there are some cases where people are homosexual and then in a way they are not. It can be hard to assess. We had one [applicant] who said that he was homosexual, but now he was not anymore because he did not think it was fun anymore. We also meet such things, and it can be difficult to take it seriously.'<sup>342</sup> (employee, *Immigration Service, Denmark*)

Similarly, asylum decision-makers may interpret the fact that an applicant is or was married or otherwise engaged in a heterosexual relationship, or that he has children, as indication of heterosexuality.

Secondly, sometimes an asylum seeker may not reveal her/his sexual orientation until later stages of the application process due to its sensitive or taboo nature or because of uncertainty about the reactions from authorities and staff (including

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<sup>339</sup> Information provided by Commissariat Général aux Réfugiés et aux Apatrides (CGRA)

<sup>340</sup> Sweden, country report

<sup>341</sup> S. Jivraj, A. de Jong, T. Tauqir (2003) 'Initial Findings: Identifying the Difficulties experienced by Muslim lesbian, bisexual and transgender women in accessing social and legal services', London: Safra Project; and M.T. Drud-Jensen, S.P. Knudsen (2007) 'Migrationsvæsenets skab - betingelser for ikke-heteroseksuelle i forbindelse med asyl og familiesammenføring i en nutidig dansk kontekst'. University of Copenhagen: Department of Sociology

<sup>342</sup> Quoted in M.T. Drud-Jensen, S.P. Knudsen (2007) 'Migrationsvæsenets skab - betingelser for ikke-heteroseksuelle i forbindelse med asyl og familiesammenføring i en nutidig dansk kontekst'. University of Copenhagen: Department of Sociology, p.132

interpreters).<sup>343</sup> This can also be due to lack of information about sexual orientation in the application process or the fact that the claimant has not 'come out' yet.<sup>344</sup>

However, if sexual orientation is brought up later in the process, the authorities may perceive the asylum seeker as untrustworthy, and claim that she/he is 'making it up' just to 'strengthen' the case.<sup>345</sup>

These issues are not necessarily due to homophobia or discrimination, but rather indicative of lack of knowledge and tools to address sexual orientation. A board member of the *Riksförbundet För Sexuellt Likaberättigande* (RFSL) [The Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights] working with the issue of asylum describes it as a phenomenon of heteronormativity:

'We talk a lot about hetero-normativity and that you cannot always assume the person sitting in front of you is heterosexual [...] A real example is an interviewer asking the question "do you have a girlfriend?" And by asking that way you exclude the possibility that you could have a male partner, if you are a male asylum seeker. [...] There are also other examples, e.g. that an interviewer says that it is strange that you have gone to a park to get in contact with other homosexuals [...] It shows that you have no idea about how homosexuals socialize and make contacts'. (Board Member, *Riksförbundet För Sexuellt Likaberättigande* (RFSL) [The Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights]).<sup>346</sup>

The Migrationsverket [Swedish Migration Board] has examined the needs of vulnerable groups and the obligations they impose on the authorities and institutions involved in the application process. Since 2004 staff dealing with asylum seekers and involved in status determination procedures receive training in gender perspective and sexual orientation as a part the Board's 'quality assurance' program. The Riksförbundet För Sexuellt Likaberättigande

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<sup>343</sup> S. Jivraj, A. de Jong, T. Tauqir (2003) 'Initial Findings: Identifying the Difficulties experienced by Muslim lesbian, bisexual and transgender women in accessing social and legal services', London: Safra Project. M.T. Drud-Jensen, S.P. Knudsen (2007) 'Migrationsvæsenets skab - betingelser for ikke-heteroseksuelle i forbindelse med asyl og familiesammenføring i en nutidig dansk kontekst'. University of Copenhagen: Department of Sociology

<sup>344</sup> Quoted in A. Webster (2008), available at <http://www.divamag.co.uk/diva/features.asp?AID=3139> (25.07.2008)

<sup>345</sup> M.T. Drud-Jensen, S.P. Knudsen (2007) 'Migrationsvæsenets skab - betingelser for ikke-heteroseksuelle i forbindelse med asyl og familiesammenføring i en nutidig dansk kontekst'. University of Copenhagen: Department of Sociology

<sup>346</sup> Quoted in M.T. Drud-Jensen, S.P. Knudsen (2007) 'Migrationsvæsenets skab - betingelser for ikke-heteroseksuelle i forbindelse med asyl og familiesammenføring i en nutidig dansk kontekst'. University of Copenhagen: Department of Sociology

(RFSL) [Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights] contributed to the development of the training.<sup>347</sup>

However, discrimination may also occur in the asylum procedures. In **Hungary**, between 2004 and 2007 the Immigration Office requested a psychiatric expert's opinion on asylum seekers' sexual orientation. In other asylum cases, for example those based on religious or political persecution, no such expert opinion was requested.<sup>348</sup> In **Slovenia**, a gay couple from Kosovo involved in legal proceedings explained in an interview with the LGBT magazine *Narobe*, that while the initial interaction with police was supportive and understanding, they felt they were treated as criminals at the hearing at the asylum centre in Ljubljana.<sup>349</sup> They were interrogated separately and had to explain in detail how one of them was raped several times. They feared their application had been rejected, as they could not precisely answer a question about when the war in Kosovo ended and about what the temperature was on the day of the rape. Furthermore, one of the staff members at the asylum centre allegedly told them that homosexuality can be cured by therapy. The case of possible hate-related police violence against the couple from Kosovo is still being heard by the Human Rights Ombudsman.

In **Belgium**, at *Commissariat Général aux Réfugiés et aux Apatrides* [General Commissioner for Refugees and Stateless Persons] a member of staff deals exclusively with asylum applications based on gender or sexual orientation, while guidelines concerning sexual orientation asylum applications have been worked out together with LGBT groups.<sup>350</sup>

### *Conditions in asylum centres*

Conditions for LGBT asylum seekers in asylum centres are another area of concern. As the following quote from **Danish** Red Cross staff indicates, life in asylum centres can be especially difficult for LGBT persons.

'[LGBT asylum seekers] are the ones having the hardest time living here, who are keeping something very important a secret.' (Red Cross health staff, asylum centre Sandholm, **Denmark**)<sup>351</sup>

<sup>347</sup> Migrationsvärdet (2005) 'En samlad analys av asylprocessen under åren 2001-2004'

<sup>348</sup> Lilla Farkas, 'Thematic Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation, Hungary', April 2008, available at <http://www.fra.europa.eu>

<sup>349</sup> R. Kuhar (2007) 'Svojega življenja ne bi spremenil za deset vaših normalnih življenj', *Narobe* 2, <http://www.narobe.si/stevilka-2/intervju-s-kadrijem-in-demirjem.html> (10.03.2008)

<sup>350</sup> A. Dewaele, D. Paternotte (2008) 'Thematic Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation, Belgium', April 2008, available at <http://www.fra.europa.eu>

<sup>351</sup> Quoted in M.T. Drud-Jensen, S.P. Knudsen (2007) 'Migrationsvæsenets skab - betingelser for ikke-heteroseksuelle i forbindelse med asyl og familiesammenføring i en nutidig dansk kontekst'. University of Copenhagen: Department of Sociology, p. 5

There is evidence that LGBT asylum seekers face social isolation and lack of information in the centres.<sup>352</sup> Furthermore, verbal, physical and sexual abuse is prevalent there, as shared rooms and facilities do not allow for privacy, the lack of which contributes to marginalisation and harassment from other applicants. LGBT asylum seekers can also be socially marginalised, as they often have no family or social network for support. Moreover, LGBT asylum seekers often do not, or do not want to, integrate with people from the same country or region of origin to avoid disclosing their sexual orientation. Furthermore, there is some evidence that gender segregation in the centres can be particularly problematic regarding transgender persons.<sup>353</sup>

As an example, during interview the Lithuanian Gay League (LGL) reported a Ukrainian citizen who applied for asylum in **Lithuania** because he had been persecuted as a gay man. In the asylum centre he was beaten and threatened by other asylum seekers. He went to *LGL* for help and subsequently left Lithuania fearing for his safety.<sup>354</sup>

In **Sweden**, The *Riksförbundet För Sexuellt Likaberättigande* (RFSL) [Federation for Lesbian, Gay, Bisexual and Transgender Rights] is visible in asylum centres, distributing pamphlets in various languages that describe possibilities for counselling for LGBT persons, the asylum application procedure, sexual orientation and gender identity in relation to asylum and LGBT rights. RFSL also provides counselling.<sup>355</sup>

In **Sweden**, asylum seekers are not forced to live in asylum centres. The Migrationsverket [Swedish Migration Board] can provide alternative housing. Moreover, asylum seekers are allowed to find their own accommodation, which they must pay for themselves, however, out of a very limited monthly payment.<sup>356</sup>

## Conclusions

All the Member States in principle recognise persecution on grounds of sexual orientation and gender identity as a valid ground for asylum. However, in many Member States, asylum application procedures remain unclear in relation to LGBT persons.

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<sup>352</sup> K. Dolk, A.Schwanter (2007) ‚Homosexualität und (Abschiebungs) Schutz in Deutschland‘. Cologne: Conference Paper by Amnesty International at the LSVD Association 2007 meeting

<sup>353</sup> M.T. Drud-Jensen, S.P. Knudsen (2007) ‘Migrationsvæsenets skab - betingelser for ikke-heteroseksuelle i forbindelse med asyl og familiesammenføring i en nutidig dansk kontekst’. University of Copenhagen: Department of Sociology.

<sup>354</sup> Fieldwork meeting with Lithuanian Gay League, March 13, 2008

<sup>355</sup> See <http://www.rfsl.se/?p=629> (24.10.2008)

<sup>356</sup> See <http://www.migrationsverket.se/index.jsp?news/getArticleList.do?name=faq&ldid=17&nolist=true> (24.10.2008)

LGBT persons face particular difficulties in the asylum seeking process, as intimate, sexual or taboo information can be difficult to present openly to public authorities. Moreover, staff and interviewing techniques often do not recognise this difficulty. The authorities' knowledge, used to determine refugee status, about the conditions for LGBT people in countries of origin is often cursory.

Several LGBT asylum seekers have been rejected either because their claim to a homosexual orientation was regarded as untrustworthy or because they were expected to be able to live in their country of origin 'privately' as homosexuals (i.e. remain closeted).<sup>357</sup>

LGBT asylum seekers in detention centres lack information and may experience social isolation and abuse because of their sexual orientation or gender identity.

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<sup>357</sup> European Union Agency for Fundamental Rights (2008), 'Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States: Part 1 – Legal Analysis', FRA 2008, pp. 83-84.

## Multiple Discrimination

Belonging to a minority within a minority poses particular challenges in a diverse society, and having more than one minority attribute can expose individuals to a higher risk of being subjected to discrimination. A black gay man, for example, can experience discrimination because of both his 'race' and his sexual orientation.

This section describes issues affecting LGBT persons with disabilities, of an ethnic minority background and/or the elderly. The grounds of disability, age, ethnic origin and race were chosen because they were most commonly identified in existing research and interviews with LGBT NGOs and National Equality Bodies.

### Contextualising multiple discrimination

Multiple discrimination is a relatively new phenomenon in European equal treatment and anti-discrimination debates and therefore also in the LGBT area. As a recent European Commission report noted,<sup>358</sup> 'there is widespread ignorance about different cultures, personal characteristics and lifestyles as well as a lack of recognition of multiple identities.' The interviews with LGBT NGOs in all Member States showed that knowledge and activity in the field are relatively limited. Nevertheless, there is an increasing awareness among LGBT NGOs that their members may experience discrimination on two or more grounds. However, relatively little action directly targeted at combating this type of discrimination is being taken.

Interviews with National Equality Bodies in all Member States show that they primarily treat cases with a 'one ground' approach.<sup>359</sup> This is partly explained by gaps in the national legislation, which hinders a multi-ground approach, and because tactically the 'one ground' approach is considered to lead to successful litigation. Furthermore, it can be difficult to determine which kind of discrimination occurs:

'We had a case where a man was harassed at his workplace. They thought he was gay because he was considered very feminine. It was hard to know who should take the case because it had to do with both gender and sexual orientation' (HomO, Ombudsman for sexual orientation discrimination, Sweden)<sup>360</sup>

<sup>358</sup> European Commission (2007), 'Tackling Multiple Discrimination. Practices, Policies and Laws', p 39

<sup>359</sup> Fieldwork meetings with National Equality Bodies in EU, March-May 2008

<sup>360</sup> European Commission (2007), 'Tackling Multiple Discrimination. Practices, policies and laws', p. 44

On the basis of interviews with various National Equality Bodies it is possible to cite the following as examples which prioritise multiple discrimination during their work: the Equal Treatment Commission (**the Netherlands**), the Equality Authority (**Ireland**), the National Council for Combating Discrimination (**Romania**) and the **Danish** Institute for Human Rights.<sup>361</sup> In **Romanian** legislation it is considered an aggravating circumstance if a person is discriminated against on more than one ground.<sup>362</sup> In **Ireland**, detailed statistics of cases involving discrimination on more than one ground are available, including the intersection of sexual orientation and other grounds.<sup>363</sup>

There is rather limited data on LGBT persons' experiences of multiple discrimination in the EU. According to The National Disability Authority (2005) in **Ireland**, 'being an accepted member of a subculture is vital to [the] process of valuing one's own identity and social role.'<sup>364</sup> The experience of not being an accepted member of any subculture or minority community may put members of multiple identity groups in a vulnerable position and lead them to establish their own communities. Furthermore, as a European Commission report<sup>365</sup> suggests, the single ground approach may fail to represent the reality of discrimination as it is experienced by individuals with multiple identities.

In interview, the LGBT NGO *Cultuur en Ontspannings-Centrum* [**COC Netherlands**] highlighted that it has established special groups for disabled LGBT persons and cooperates with organisations for the elderly. They have opened a café in Nijmegen for mentally disabled gays and lesbians.<sup>366</sup> Another Dutch project concerning elderly LGBT persons was initiated by several civil society organisations with government funding. The project identifies the needs of elderly LGBT persons, particularly regarding social and medical care.<sup>367</sup>

Pilot projects for LGBT youth with a non-Dutch ethnic background are taking place in Amsterdam, Rotterdam, The Hague and Tilburg focusing on breaking isolation and providing counselling, support and shelter.<sup>368</sup>

### **Being LGBT and part of an ethnic minority**

The double minority status of LGBT persons expresses itself in different ways and generates complex challenges. The 'coming out' process can be particularly difficult for an ethnic minority LGBT person within her/his own community as

<sup>361</sup> Fieldwork meeting with the Equal Treatment Commission (Netherlands 31 March 2008); The Equality Authority (Ireland 3 April 2008); the Danish Institute For Human Rights (Denmark 23 April 2008); the National Council for Combating Discrimination (Romania 7 April 2008)

<sup>362</sup> Fieldwork meeting with the National Council for Combating Discrimination (Romania 7 April 2008)

<sup>363</sup> Fieldwork meeting with The Equality Authority (Ireland 3 April 2008)

<sup>364</sup> National Disability Authority (2005) *Disability and Sexual Orientation: A Discussion Paper*. Dublin: NDA. P. 14

<sup>365</sup> European Commission (2007) *Tackling Multiple Discrimination. Practices, policies and laws*

<sup>366</sup> Fieldwork meeting with the COC (The Netherlands 31 March 2008)

<sup>367</sup> Fieldwork meeting with the COC (The Netherlands 31 March 2008)

<sup>368</sup> Fieldwork meeting with the COC (The Netherlands 31 March 2008)



confirmed during an interview by an NGO representative in **Romania**, who stated that '*Coming out in the Roma community is extremely difficult.*'<sup>369</sup>

Another problem arising from the double minority status is an increased risk of hate crime motivated both by racism and the victim's sexual orientation.

'Depending on which part of Berlin I go to, in one I get punched in the mouth because I'm a foreigner and in the other because I'm a queen [slang for effeminate transgender or gay male person].' (Transgender, **Germany**)<sup>370</sup>

In a qualitative study from **Denmark** LGB respondents highlighted the challenge of reconciling an ethnic or religious minority background with LGBT status.<sup>371</sup> In 2005, The National Organisation for Gays and Lesbians in **Denmark** established Salon Oriental, a group for LGBT persons with ethnic minority background specifically to address this challenge. Another NGO, *Sabaah*, identified 'identity, "coming out", religion, loneliness, family conflicts, parent reactions, relationships and gay scene' as areas of concern to LGBT persons with ethnic minority backgrounds.<sup>372</sup> Additionally, a book of interviews with gays and lesbians of ethnic minority backgrounds has been published.<sup>373</sup>

Some LGBT persons with ethnic minority backgrounds experience racism and sexualisation in the wider LGBT community on grounds of their perceived ethnicity, as well as homophobia in ethnic minority communities.

Multiple-ground NGOs: *Sabaah* is a civil society organisation focusing on ethnic minority LGBT persons in **Denmark**. It was founded to create a social network empowering ethnic minority LGBT people to tackle the problems they face in combining their sexual identity and ethnic minority background.

According to the **United Kingdom Safra Project**<sup>374</sup> - run by and for Muslim LBT women - many of these women are socially isolated because although they identify themselves as lesbian, bisexual or transgender, they do not participate in

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<sup>369</sup> Fieldwork meeting with Accept (Romania 7 April 2008)

<sup>370</sup> Berlin Journal, 'Gay Muslims Pack a Dance Floor of Their Own'. Published: January 1, 2008, available at <http://www.nytimes.com/2008/01/01/world/europe/01berlin.html?n=Top/Reference/Times%20Topics/Subjects/R/Religion%20and%20Belief> (31.07.2008)

<sup>371</sup> C. Osander (2005) 'Københavnerviv - en interviewundersøgelse med homoseksuelle med minoritetsetnisk baggrund'. Copenhagen: National Organisation for Gays and Lesbians

<sup>372</sup> More information available at [http://sabaah.dk/web/index.php?option=com\\_content&task=view&id=16&Itemid=47](http://sabaah.dk/web/index.php?option=com_content&task=view&id=16&Itemid=47) (20.08.2008)

<sup>373</sup> M. Fenger-Grøndahl, M.N. Larsen (2007) 'Den forbandede kærlighed', Copenhagen: CDR-Forlag

<sup>374</sup> More information available at <http://www.safraproject.org> (01.08.2008)

the mainstream gay scene, because it is predominantly white and its social activities are often alcohol-related. Moreover, racism, Islamophobia and cultural insensitivity within the gay scene itself can be alienating factors. Subsequently, many Muslim LBT women feel that they do not belong either to LGBT or Muslim communities.

Documentary on LGBT persons from ethnic minority communities: 'My sister Zahra' is a documentary made by Sadies Choua in **Belgium**. It shows the story of Zahra, a lesbian growing up in a Muslim family. The documentary is screened in high schools and followed by discussions structured on the basis of a methodology developed by the Flemish LGBT umbrella organisation 'Holebifederatie'. The initiative is supported by the Flemish government.<sup>375</sup>

### Being LGBT with a disability

Being gay and having a disability is another intersection requiring particular attention. Lack of accessibility can be a serious obstacle for the lives and needs of LGBT persons, often affecting their ability to make friends or meet partners. According to a German study, the sexuality of disabled people is not only often ignored (or it is assumed that they have none), but mobility issues and discrimination within the LGBT community itself makes contacting potential partners difficult.<sup>376</sup>

'It is really difficult sometimes being gay and having a disability, especially when it comes to accessibility. Generally it is extremely difficult getting around in the city and in terms of meeting people it becomes a real problem that there isn't a single place which is accessible and gay or just gay friendly. It is obviously quite difficult to become part of a community that you can't access.' (Maya, 22, **Denmark**)<sup>377</sup>

In two Irish studies<sup>378</sup> regarding persons with disabilities and young LGB persons, respondents referred to experiences of homophobia in disability organisations and communities, as well as to prejudiced attitudes and behaviours

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<sup>375</sup> Belgium, country report

<sup>376</sup> T. Rattay (2007), 'Volle Fahrt voraus – Lesben und Schwule mit Behinderung'. Berlin: Querverlag

<sup>377</sup> European Commission (2007), 'Tackling Multiple Discrimination. Practices, policies and laws', p. 40

<sup>378</sup> K. Zappone (ed) (2003) 'Re-thinking Identity The Challenge of diversity' Commissioned by the Joint Equality and Human Rights Forum. On the intersection of disability and sexual orientation see also Zappone, Michael (2003) 'It's not just about Ramps and Braille: Disability and Sexual Orientation' pp. 49-69. On the intersection of age and sexual orientation see Loudes, Christine (2003) 'Learning to grow up. Young Lesbians, Gay and Bisexual People in Northern Ireland'

towards persons with disabilities in the LGB community.<sup>379</sup> The British country report notes a general lack of recognition of sexuality issues, interests and needs regarding disabled persons in the **United Kingdom**, particularly among persons with more severe impairments. LGBT persons with disabilities are particularly likely to be marginalised.<sup>380</sup>

### **Being LGBT and elderly**

The combination of age and sexual orientation can increase the vulnerability of LGBT persons:

I don't deny [being gay] if anyone asks directly, and Panbladet [a gay magazine] is always lying on the table. But otherwise it is not a place where you can be open about your sexuality. The rumours would spread. Of course it would be more secure and friendly living together with other homosexuals.<sup>381</sup> (Male 73, **Denmark**)

According to the LGBT NGO *GLEN*, in **Ireland**, same-sex relationships are often unrecognised at elderly persons' homes, and elderly LGBT persons are often silent and isolated due to fear of discrimination and social isolation.<sup>382</sup> A resident grieving the death of a partner, for example, may not have an institutional or support network to draw upon.<sup>383</sup> A German study<sup>384</sup> showed that LGBT persons in nursing homes are confronted with negative stereotypes expressed by staff and other residents.

A research project linked to developing a strategy for improving diversity in elderly health care was carried out in 2008 by the Gerontology Department of Copenhagen University focusing on elderly homosexuals and bisexuals.<sup>385</sup>

### **Conclusions**

People with multiple identities may suffer from social isolation, which may generate additional challenges, but may also eventually give rise to the creation of 'multiple ground' communities and NGOs.

<sup>379</sup> K. Zappone (ed) (2003) 'Re-thinking Identity The Challenge of diversity' Commissioned by the Joint Equality and Human Rights Forum p.147 and National Disability Authority (2005) Disability and Sexual Orientation: A Discussion Paper. Dublin: NDA

<sup>380</sup> See for instance Neal, C. and Davies, D. (2000) (eds) 'Issues in Therapy with lesbian, gay, bisexual and transgender clients'. Pink Therapy, Series 3

<sup>381</sup> Quoted in L.E. Frank 'Leif i Lyngby', in Panbladet, November 2004, p. 10

<sup>382</sup> Fieldwork meeting with GLEN (Ireland 3 April 2008)

<sup>383</sup> Fieldwork meeting with GLEN (Ireland 3 April 2008)

<sup>384</sup> Ministerium für Gesundheit, Soziales, Frauen und Familie des Landes Nordrhein-Westfalen [MGSFF] (2003) 'Grundlagenforschung zu Ursachen und Auswirkungen. Einsamkeit und soziale Isolation schwuler Männer'. Düsseldorf: Author

<sup>385</sup> Denmark, country report

Discrimination and exclusion are experienced in different ways by disabled, elderly and ethnic/religious minority LGBT persons. Ethnic minorities risk discrimination on grounds of sexual orientation or gender identity within their ethnic community and discrimination on grounds of race or ethnic background in the LGBT community. Disabled LGBT persons experience '*asexualisation*' by, among others, caretakers and members of the LGBT community itself. Furthermore, inaccessible LGBT venues, bars and meeting places make it difficult for disabled LGBT persons to participate in the life of the LGBT community.

Some LGBT persons in care facilities face social isolation and stereotyping from personnel and other residents.

## PART II: Transgender persons: specific issues

This section contains an overview of the situation of transgender persons in the EU with regard to transphobia and discrimination.<sup>386</sup>

### What is transphobia?

Transphobia, not a commonly used term, is often related to broader discussions of homophobia.<sup>387</sup> Currently transphobia can be described as an irrational fear of gender non-conformity or gender transgression, such as a fear of, or aversion to, masculine women, feminine men, cross-dressers, transgenderists, transsexuals and others who do not fit into existing gender stereotypes about their birth gender. The use of the word ‘phobia’ in this context is not intended to imply that the transphobic person and/or the victim of transphobia are suffering from a disorder.<sup>388</sup>

Transphobia can take different forms: *personal transphobia*, which refers to a person or a defined group of persons with transphobia. This can be experienced in the form of violence and/or explicit discrimination (‘you don’t get the job because you’re trans’), explicit exclusion (‘no trans people allowed’). *Institutionalised transphobia* is a more indirect form of exclusion (‘we have nothing against transgender people, but all girls have to wear dresses/you cannot change your birth certificate/we will call you Mr. because your ID card says you’re male’). Finally, *internalised transphobia* is the conscious or subconscious belief of transgender persons that they themselves are in some sense inferior.<sup>389</sup>

### Legal protection<sup>390</sup>

Detailed analysis of the legal protection accorded to transgender persons in EU and national law appears in the FRA’s published report “Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States:

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<sup>386</sup> This section is based on work by Justus Einfeld, independent advisor. In the first edition reference to Mr. Justus Einfeld was inadvertently omitted.

<sup>387</sup> On 16 January 2006 The European Parliament adopted a resolution on homophobia in Europe, where discrimination on the grounds of gender identity was included in the term ‘homophobia’. <http://www.europarl.europa.eu/sides/getDoc.do?jsessionid=4DB2429ABF36AA0D33AF2F8C09062763.node2?type=TA&language=EN&reference=P6-TA-2006-0018> (12.12.2008)

<sup>388</sup> Hill, D and Willoughby, B. (2005) ‘The Development and Validation of the Genderism and Transphobia Scale’, in *Sex Roles*, Vol. 53, Nr. 7-8, October 2005, Netherlands: Springer

<sup>389</sup> Justus Einfeld, (2008), ‘The situation concerning transphobia and discrimination on grounds of gender identity and/or gender expression in the EU Member States’, DIHR

<sup>390</sup> This section is based on the report FRA (2008) ‘Homophobia and discrimination on grounds of sexual orientation in the EU Member States, Part 1 Legal Analysis’, pp. 123-137, 153-154

Part 1 – Legal Analysis”. A brief overview is given here in order to provide a background to the remaining issues discussed in this section. Three principal means of protection against discrimination based on transgenderism can be found among EU Member States:

Firstly, discrimination on the basis of transgenderism may be interpreted to fall within discrimination on the basis of sex within instruments prohibiting discrimination between men and women. Thirteen EU Member States fall within this category (**Belgium, Denmark, France, Ireland, Italy, Latvia,**<sup>391</sup> **The Netherlands,**<sup>392</sup> **Austria,**<sup>393</sup> **Poland, Slovakia,**<sup>394</sup> **Finland, Sweden, United Kingdom**<sup>395</sup>).

Secondly, it may be interpreted to fall within discrimination on the basis of sexual orientation. Two Member States fall within this category (**Germany,**<sup>396</sup> **Spain**).

Thirdly, it may be interpreted to fall within a general prohibition on discrimination, with no express articulation of sex or sexual orientation as the prohibited grounds. The result is a situation of legal uncertainty as to the precise protection of transgender persons from discrimination. Eleven Member States fall within this category (**Bulgaria, Czech Republic, Estonia, Greece, Cyprus, Lithuania, Luxembourg, Malta, Portugal, Romania, and Slovenia**).

Finally, **Hungary** addresses discrimination based on transgenderism on the grounds of sexual identity under the Act on Equal Treatment.<sup>397</sup>

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<sup>391</sup> Latvia/Latvijas Republikas Augstākās tiesas Senāta Administratīvo lietu departaments/A42229505 SKA – 5/2008 (14.01.2008).

<sup>392</sup> Leeuwarden Court of Appeal, 13.01.1995, NJ 1995 nr. 243 and, for example, ETC Opinions 1998-12 and 2000-73

<sup>393</sup> Austria / Erläuterungen [Explanatory Notes]/ RV 415dB XXIII. GP, available at: [http://www.parlament.gv.at/PG/DE/XXIII/I/I\\_00415/fname\\_096505.pdf](http://www.parlament.gv.at/PG/DE/XXIII/I/I_00415/fname_096505.pdf) (08.01.2008) (explanations appended to the government bill for the implementation of Council Directive 2004/113/EC prohibiting discrimination between men and women in access to and supply of goods and services).

<sup>394</sup> Art. 6 (3)a. Slovakia/ Antidiskriminačný Zákon 365/2004 (20.05.2004)

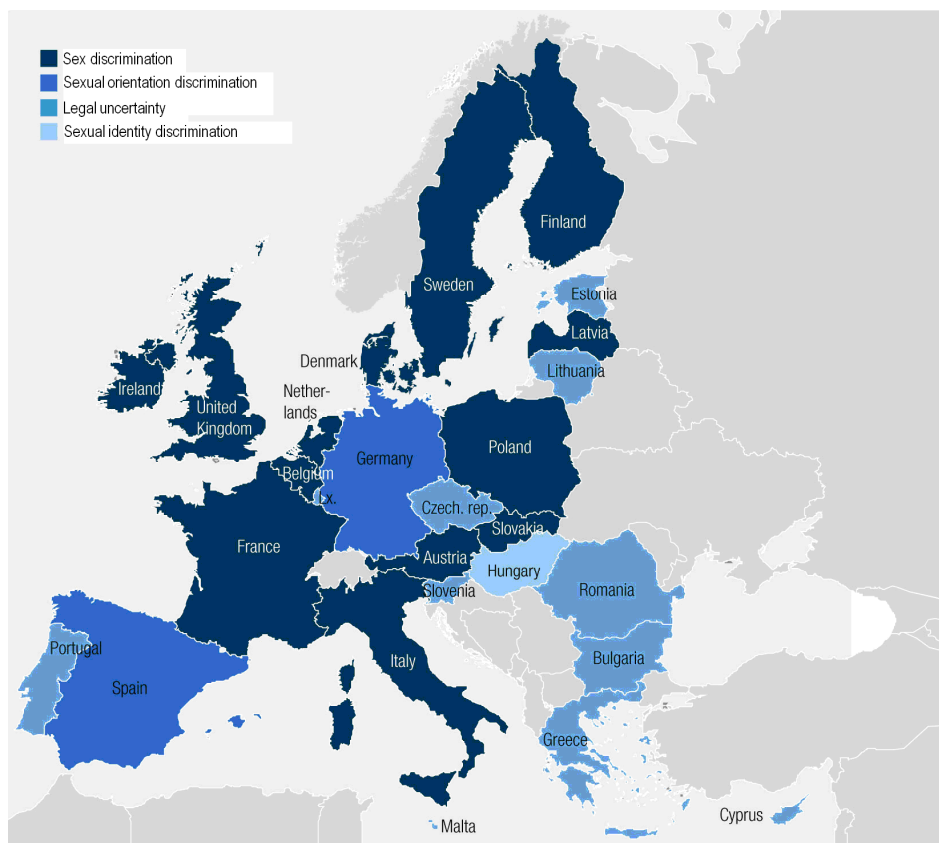
<sup>395</sup> In Great Britain, the relevant provisions are contained in the Sex Discrimination Act 1975 (SDA), as amended by the Sex Discrimination (Gender Reassignment) Regulations 1999. In Northern Ireland, protection is conferred by the Sex Discrimination (NI) Order 1976 (SDO), as amended by the Sex Discrimination (Gender Reassignment) Regulations (NI) 1999.

In the UK also, where a person can obtain a Gender Recognition Certificate under the Gender Recognition Act 2004 (GRA) it would not be lawful to discriminate other than on grounds that would legally apply to anyone else of his or her acquired gender. (There is one exception: it is possible for an organised religion to discriminate where there are genuine religious reasons to refuse to employ a transsexual person even if the person has a Gender Recognition Certificate).

<sup>396</sup> See the Explanatory Memorandum to the General Law on Equal Treatment: Bundestag, publication no. 16/1780, p. 31

<sup>397</sup> Transgender people may be protected from discrimination as such, when they are treated differently than other persons of the same gender as the acquired gender. In Hungary, the Act on Equal Treatment (Hungary/2003 évi CXXV Törvény/28.12.2003) includes sexual identity

**Figure 2.1: Categorisation of discrimination on the basis of transgender legislation**



### *Attitudes towards transgender people*

There is a dearth of Europe-wide scientific data on the attitudes of society towards transgender people. However, some Europe-wide research focussing on the experience of transgender persons who have been subjected to transphobic attitudes is available relating to the healthcare sector (see healthcare section). Similar research for other sectors are available in some Member States, and these have also been cited in their respective sections.<sup>398</sup>

Some existing research on negative attitudes towards transgender people, for example one study<sup>399</sup> involving 151 psychology and engineering students in

as one of the grounds of discrimination (Article 8-n), Hungary/2003 évi CXXV Törvény/28.12.2003)

<sup>398</sup> Justus Eisfeld, (2008), 'The situation concerning transphobia and discrimination on grounds of gender identity and/or gender expression in the EU Member States', DIHR, p. 12

<sup>399</sup> Tee, N, Hegarty, P (2006) 'Predicting Opposition to the Civil Rights of Trans Persons in the United Kingdom', in 16 Journal of Community & Applied Social Psychology.,: 70-80, Wiley InterScience

Britain and another involving 407 undergraduate and graduate students, shows that transphobia appears to be closely linked with, among other things, religious, authoritarian and heterosexist attitudes, a belief in the biological basis of gender identity and little previous contact with gender minorities.

Most research on transgender people has been limited to the medical aspects of gender identity and gender transition. However, research specifically on transphobia has been conducted in several European countries, most notably the 'Engendered Penalties'<sup>400</sup> study of 872 self-identified transgender respondents. The broad findings of this research showed that the situation for transgender people is bad in all of these countries. One European-wide study<sup>401</sup> was conducted in 2007, producing a wealth of data on 2,700 transgender people in Europe, but so far sufficient funding has only been available for a limited analysis of this data on the legal situation and the situation in healthcare. A review of research highlights a trend towards a willingness to conduct high quality and well-funded research in Member States with a strong transgender movement, such as the **United Kingdom** and **Finland**. For large parts of Europe, especially in the Southern and Eastern parts of the EU, no published scientific research on transphobia exists at all.

At Member State level, the most comprehensive research on attitudes in society comes from Scotland, where questions about transsexuals were included in a large scale scientific survey based on a sample of 1,594 adults.<sup>402</sup> It concluded that: 'discriminatory attitudes are more widespread in respect of some groups than others. They are particularly common in respect of Gypsies/Travellers and someone who has had a sex change operation (a description designed to refer to a transgender person)'.<sup>403</sup> This is especially evidenced by the fact that 50 per cent of the surveyed respondents said that 'they would be unhappy about a relative forming a long-term relationship with a transsexual person'. Further analysis shows that negative attitudes towards transgender people are common for the whole population and highest for uneducated religious males aged 65+. However 44 per cent of the respondents who agreed that Scotland should get rid of all kinds of prejudice were unhappy about transsexuals as in-laws.<sup>404</sup>

In the British study, mentioned earlier, involving 151 psychology and engineering students, used to establish predictors of opposition to transgender

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<sup>400</sup> Whittle, S, Turner, L, Al-Alami M (2007) 'Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination', Wetherby: The Equalities Review

<sup>401</sup> Whittle, S, Turner, L, Combs, R, Rhodes, S (2008) 'Transgender EuroStudy: Legal Survey and Focus on the Transgender Experience of Health Care', Brussels: ILGA-Europe

<sup>402</sup> Bromley, C, Curtice, J, Given, L (2007) 'Attitudes to discrimination in Scotland': 2006, Scottish Social Attitudes Survey, Edinburgh: Scottish Government Social Research

<sup>403</sup> Bromley, C, Curtice, J, Given, L (2007) 'Attitudes to discrimination in Scotland': 2006, Scottish Social Attitudes Survey, Edinburgh: Scottish Government Social Research, p. ix

<sup>404</sup> Bromley, C, Curtice, J, Given, L (2007) 'Attitudes to discrimination in Scotland': 2006, Scottish Social Attitudes Survey, Edinburgh: Scottish Government Social Research



people's rights, a high level of transphobia was evident in all subjects of the study.<sup>405</sup>

In the **United Kingdom**, the Scottish Executive will provide €75.000 per year for four years (2007-2011) to fund a full-time national Scottish Transgender Alliance project to provide policy development assistance and good practice guidance to Scottish public services, employers and government bodies, and to develop transgender community activist capacity; and, iii) promote transgender inclusion in Scottish society.<sup>406</sup>

As part of the e-survey among LGBT NGOs, National Equality Bodies and public authorities, these stakeholders were asked about the acceptance of transgender people in their country. The survey shows that 73 per cent of the respondents believe that there is 'no' or 'limited' acceptance of transgender persons.

**In Italy** the LGBT service of the Turin town hall, the local LGBT association "Groupa Luna" and three art schools staged together a competition, between each of the three schools, for a set of posters against discrimination on the grounds of homosexuality and transsexuality. The posters were displayed in the town's streets and on local public transport. The winning poster depicting a black and white flock of sheep with a single pink-coloured one which represents the "minority within minorities" (i.e. transsexualism) was widely distributed. Similar initiatives have started in other towns in **Italy**.<sup>407</sup> The winning poster and all the others can be accessed at: [www.comune.torino.it/politichedigenere/man/index.htm](http://www.comune.torino.it/politichedigenere/man/index.htm)

### *Treatment of transgender people by their families*

'Coming out' to their families is perceived to be problematic by virtually all transgender people. While data is largely unavailable on the magnitude of the problem, the 'Engendered Penalties' study found that 45 per cent of the respondents experienced a breakdown in their relationship with their families, 37 per cent reported feeling excluded from family events and 36 per cent have family members who do not speak to them because of their transgender identities.<sup>408</sup>

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<sup>405</sup> E-mail exchange with P. Hegarty, June 12, 2008

<sup>406</sup> Scottish Transgender Alliance (2008) 'Transgender Experiences in Scotland - Research Summary', Edinburgh: Equality Network, p. 3

<sup>407</sup> Italy, country report

<sup>408</sup> Whittle, S, Turner, L, Al-Alami M (2007) 'Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination', Wetherby: The Equalities Review, p. 68

In the **Scottish** survey on transgender experiences, 46 per cent of the respondents reported transphobic abuse in domestic relationships – mostly in the form of verbal abuse. However, threatening behaviour (17 per cent), physical abuse (11 per cent) and sexual abuse (4 per cent) were also common.<sup>409</sup> In a **Swedish** survey, 32 per cent of transgender respondents said they lacked emotional support in their lives in comparison to 19 per cent of gay respondents and about 10 per cent of heterosexual respondents. Fifteen per cent missed practical support, against 4 per cent of the heterosexual population and 9 per cent of the gay population. Finally, 37 per cent of transgender persons reported that they lacked confidence in most other people.<sup>410</sup> In **Hungary**, ‘rejection was the most often mentioned reaction from family... After several years of struggle some had experienced practical signs of acceptance’.<sup>411</sup> In **Sweden** few transgender people are open about their gender identity in their families of origin – about 80 per cent among those born in the 60s or later, and 54-60 per cent among those born before the 60s.<sup>412</sup>

## Hate Crime

Little is known about the extent of hate crime against transgender people in the EU. There is no research data on this topic for any EU Member State. However there are indications that transgender people are very often victims of hate crime in the course of their lives, ranging from harassment, bullying and verbal abuse to physical violence, sexual assault and even murder. As noted above, the European Parliament has ‘monitored a proliferation of hate speech targeting the lesbian, gay, bisexual and transgender (LGBT) community in a number of European countries’.<sup>413</sup> The OSCE stated the following in their report ‘Hate Crimes in the OSCE Region: Incidents and Responses’: ‘Homophobic hate crimes and incidents often show a high degree of cruelty and brutality. They often involve severe beatings, torture, mutilation, castration, even sexual assault. They are also very likely to result in death. Transgender people seem to be even more vulnerable within this category.’<sup>414</sup>

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<sup>409</sup> Scottish Transgender Alliance (2008) ‘Transgender Experiences in Scotland - Research Summary’, Edinburgh: Equality Network, p. 11

<sup>410</sup> Statens Folkhälsoinstitut (2005) ‘Homosexuellas, bisexuellas och transpersoners hälsosituation, Återrapportering av regeringsuppdrag att undersöka och analysera hälsosituationen bland hbt-personer’, Östersund: FHI, p. 33f

<sup>411</sup> Solymár, B, Takács, J (2007) ‘Wrong Bodies and Real Selves: Transsexual People in the Hungarian Social and Health Care System’, in: Kuhar, R, Takács, J (eds.) (2007) ‘Beyond the Pink Curtain: Everyday Life of LGBT People in Eastern Europe’, Ljubljana: Mirovni Institut, p. 153

<sup>412</sup> Statens Folkhälsoinstitut (2005) ‘Homosexuellas, bisexuellas och transpersoners hälsosituation: Återrapportering av regeringsuppdrag att undersöka och analysera hälsosituationen bland hbt-personer’, Östersund: FHI, p. 37

<sup>413</sup> European Parliament Resolution, ‘Homophobia in Europe’ adopted 26 April 2007, P6\_TA(2007)0167

<sup>414</sup> OSCE/ODIHR (2007) Hate Crimes in the OSCE Region: Incidents and Responses; Annual report for 2006; Warsaw: OSCE/ODIHR, p. 53f

Over the course of the last several years a number of cases of transgender people who were murdered reached the national and international media. The case that received the most attention was that of a transsexual in the city of Porto, **Portugal**, who was tortured, raped and thrown in an abandoned well to die by a group of teenage boys.<sup>415</sup> Other similar murder cases, in The Hague, **the Netherlands** in 2007<sup>416</sup> and again in **Portugal**, in 2008<sup>417</sup> also made international news. But the real number of murders of transgender people that have taken place on account of their gender identity is unknown.

Following the terrible murder in 2006 in **Portugal**, “*Panteras Rosas*” drew public attention on this horrific incident and fought to counter the biased depiction of the crime in the media, by church leaders and the public. In cooperation with TransGender Europe, and other transgender friendly organisations, they organised a multilingual campaign asking for more awareness of the problem and a trial. These common efforts developed a public debate on “hate-crime” focusing on aggressors rather than the victims.<sup>418</sup>

One of the few examples where a police force specifically records transphobic violence is in the **United Kingdom**, in Northern Ireland where the police records transphobic hate crimes.<sup>419</sup> Reported incidents of transphobic violence in Northern Ireland were rather low with 32 transphobic incidents reported in 2006/2007 and 7 incidents in 2007/2008.

In contrast, the reported prevalence of transphobic harassment and violence by transgender people appears to be high. In the ‘Engendered Penalties’ study, 73 per cent of the transgender respondents reported negative comments, verbal, physical or sexual abuse or threatening behaviour.<sup>420</sup> In **Sweden**, 41 per cent of the 374 transgender respondents of a large-scale study into the health of LGBT people reported having been victims of offensive behaviour/treatment in the past three months in comparison to 30 per cent of homosexuals. Twelve percent of transgender people in comparison to 6 per cent of gay respondents reported repeated abuse. A third of the transgender respondents reported to have been the victim of harassment at some point in their lives and one third of this group

<sup>415</sup> OSCE/ODIHR (2007) Hate Crimes in the OSCE Region: Incidents and Responses; Annual report for 2006; Warsaw: OSCE/ODIHR, p.54

<sup>416</sup> AD Den Haag (2007) ‘Travestiet overleden na mishandeling’, Den Haag: Algemeen Dagblad 19 April 2007, available at <http://www.ad.nl/denhaag/stad/article1295771.ece>; vreeerBlog (2007) RIP Henriëtte Wiersinga, available at <http://www.vreeer.net/wordpress/archives/78> (12.06.2008)

<sup>417</sup> Diário de Notícias (2008) ‘Transsexual assassinada um ano depois de Gisberta’, Lisboa: Diário de Notícias 1.3.2008, available at [http://dn.sapo.pt/2008/03/01/cidades/transsexual\\_assassinada\\_ano\\_depois\\_gi.html](http://dn.sapo.pt/2008/03/01/cidades/transsexual_assassinada_ano_depois_gi.html) (12.06.2008)

<sup>418</sup> Information provided by Transgender Europe at consultative roundtable on combating homophobia and transphobia in the EU, June 2008, Copenhagen

<sup>419</sup> PSNI Statistics (2008) ‘Annual Statistical Report, Statistical Report No. 3; Hate Incidents & Crimes; 1<sup>st</sup> April 2007 – 31<sup>st</sup> March 2008’; Belfast: PSNI; 2008

<sup>420</sup> Whittle, S, Turner, L, Al-Alami M (2007) ‘Engendered Penalties: Transgender and Transsexual People’s Experiences of Inequality and Discrimination’, Wetherby: The Equalities Review, p. 53

reported such experiences within the last year.<sup>421</sup> In another survey in **Sweden** 59 per cent of the transgender respondents of another survey reported that they were afraid of harassment and violence on the basis of their gender identity, while gay men and women (45 per cent) and bisexuals (39 per cent) reported lower numbers.

There is no European-wide research data available detailing the police and medical treatment transgender victims of crime experience when they report a crime to the authorities. However, 18.5 per cent of transgender respondents in the 'Engendered Penalties' study reported that in interaction with the police in the **United Kingdom** they felt that they were not treated correctly. Overall 33.5 per cent of **United Kingdom** transgender respondents in this study, reported that they would not be confident that they would be treated appropriately by members of the police should they need their assistance.<sup>422</sup> Evidently, such lack of confidence in the police will affect crime reporting by transgender victims.

**In the United Kingdom**, the Northern Ireland police regularly reports on transphobic hate crimes. Their statistical press notice reads "In terms of hate motivated incidents recorded during 2007/08, sectarian incidents were the most common (1,584) followed by racist incidents (976), homophobic (160), faith/religion (68), disability (49) and transphobic (7) motivated incidents."<sup>423</sup>

### *Freedom of Assembly*

The membership of the only European-wide network of transgender groups and individuals – TransGender Europe – consists mainly of local groups. There is no research on transgender groups or networks in Europe.

Transgender NGOs are stronger in countries that have a longer tradition of transgender emancipation and other social movements, such as the **United Kingdom** and the **Netherlands**. In contrast there are hardly any NGOs with a specific focus on transgender people in Southern and Eastern Europe. Based on anecdotal evidence the stability of transgender groups can be a problem, as group members are often are disempowered by their own personal experiences of discrimination, as well as a lack of support. As a result, in-fighting and splinter group behaviour occurs frequently, undermining the efficiency of such emancipation movements.

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<sup>421</sup> Statens Folkhälsoinstitut (2005) 'Homosexuellas, bisexuellas och transpersoners hälsosituation: Återrapportering av regeringsuppdrag att undersöka och analysera hälsosituationen bland hbt-personer', Östersund: FHI

<sup>422</sup> Whittle, S, Turner, L, Al-Alami M (2007) 'Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination', Wetherby: The Equalities Review, p. 16

<sup>423</sup> PSNI Statistics (2008) 'Annual Statistical Report, Statistical Report No. 3; Hate Incidents & Crimes; 1<sup>st</sup> April 2007 – 31<sup>st</sup> March 2008'; Belfast: PSNI; 2008

This is confirmed by descriptions of national transgender structures in **Belgium**<sup>424</sup> and **the Netherlands**.<sup>425</sup> Only in very few countries, such as **Finland**<sup>426</sup> and **the Netherlands**,<sup>427</sup> have transgender groups been able to find funding that enables them to employ community/social workers to assist transgender people on a personal level. However, hardly any transgender groups managed to raise enough funding to employ community development or policy professionals.

There has been no evidence of prohibitions against transgender public demonstrations or organised events. This is likely due to the fact that transgender groups very seldom organise such events due to the lack of human and financial resources and fear of their members being recognised in public. The few public events that are celebrated, mostly occurring around Trans Remembrance Day when victims of transphobic murders are commemorated, receive very little media attention.

The European Transgender Council brings together bi-annually transgender activists from all over Europe. The event is organised by local groups of transgender activists. It is a Europe-wide unique opportunity for transgender groups to multiply efforts, strengthen networks, co-ordinate campaigns, exchange best-practice, and formulate political demands and strategies. It is seen as a tremendous support by the participants and for the groups, communities and countries they represent. At the Council, the main focus is on transgender rights and how to obtain them politically at EU and national level. In 2005 (Vienna, **Austria**) and 2008 (Berlin, **Germany**) the event was held under the patronage of the city councils' and city districts' mayors.<sup>428</sup>

### *The Labour Market*

There is no evidence that official complaints of transgender people in the labour market have so far been collected by authorities. However, there is some research in various EU countries that paints a bleak picture of the situation of transgender people in the labour market.

In **Spain**, research<sup>429</sup> on 100 respondents from the First Gender Identity Disorder Unit showed that 54 per cent were unemployed and only 35 per cent

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<sup>424</sup> Motmans, J (2006) De Transgenderbeweging in Vlaanderen en Brussel in kaart gebracht:

Organisatiekenmerken, Netwerken en Strijdpunten, Antwerpen, Hasselt: Steunpunt Gelijkekansenbeleid; Remmerie, L (2008) Naar een Vlaams transgenderoverleg? Visie van transgenderbeweging en zijn potentiële partners, Gent: Arteveldehogeschool

<sup>425</sup> Meulmeester, G, Bos, G, Spaas, J-P, Eisfeld, J (2005) 'Doe T Zelf - Transgenderorganisaties in Nederland', Amsterdam: Stichting T-Image

<sup>426</sup> See <http://www.transtukipiste.fi/en/index.html> (12.06.2008)

<sup>427</sup> See <http://www.transvisie.nu> (15.06.2008)

<sup>428</sup> See <http://tgeu.net/> (17.10.2008)

<sup>429</sup> Esteva, I et al. (2001) 'Social Inequalities: Demographic Characteristics of Patients Treated at the First Gender Identity Disorder Unit in Spain', paper at the XVII Harry Benjamin

were able to hold a full-time job, a third of whom had the job for less than a year. Over 55 per cent had experienced discrimination at work or when looking for work and 17.2 per cent had to engage in dangerous or illegal activities to survive.

In Scotland in the **United Kingdom**, research<sup>430</sup> showed that 40 per cent of transgendered respondents rated the services of their HR/Personnel Departments as 'extremely poor', while 53 per cent experienced transphobic discrimination or harassment at work. Fifteen per cent felt that their employer failed to protect their privacy and 21 per cent had to change or quit their jobs due to transphobia. Thirty per cent of the respondents relied on state benefits, while 20 per cent were self-employed.

In the **United Kingdom**, the 'Engendered Penalties' study found that 23 per cent of respondents felt the need to change their jobs because of their transgender identity. Twenty two per cent were required to use gender inappropriate toilets at work and only about a third reported being able to use the toilet free from remarks or harassment. Only about 30 per cent were 'treated with dignity' by co-workers. Ten percent experienced verbal abuse (such as name-calling) and 6 per cent were physically assaulted. The effect of these experiences appear to be strong: 42 per cent of the people not living in their preferred gender role did so because they were afraid of losing their jobs.<sup>431</sup>

Research from **Finland** with 108 participants had similar findings. One third of the transvestite respondents would have liked to express their femininity in the workplace but felt it was impossible.<sup>432</sup> Sixteen percent of all trans respondents were self-employed (compared to 3 per cent among LGB respondents) and 8 per cent were unemployed (compared to 3 per cent among LGB respondents). Thirty-four per cent concealed their trans identity or gender expression from all of their co-workers (compared to 17 per cent among LGB respondents). Forty-five per cent of the transgender employees concealed from their employers their gender identity or gender expression, and 51 per cent of the respondents found this to be stressful. Seventy-eight per cent of the respondents reported witnessing inappropriate jokes at work. Thirteen percent of the transgender respondents experienced discrimination upon recruitment, 12 per cent in the area of pay, 13 per cent with regard to opportunities for career advancement, 12 per cent in access to information and 16 per cent in the attitudes of co-workers and supervisors.

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International Gender Dysphoria Association Symposium, Galveston, Texas: HGIGDA available at [http://www.symposion.com/ijt/hbigda/2001/71\\_eteva.htm](http://www.symposion.com/ijt/hbigda/2001/71_eteva.htm) (25.05.2008)

<sup>430</sup> Scottish Transgender Alliance (2008) 'Transgender Experiences in Scotland - Research Summary', Edinburgh: Equality Network, p. 14

<sup>431</sup> Whittle, S, Turner, L, Al-Alami M (2007) 'Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination', Wetherby: The Equalities Review

<sup>432</sup> Lehtonen, J, Mustola, K (2004) "'Straight People don't tell, do they...?" Negotiating the boundaries of sexuality and gender at work', Helsinki: Ministry of Labour

Although people who experience discrimination arising from the gender reassignment should be protected by anti-discrimination law, often Member States do not apply this legislation to transgender people.<sup>433</sup> Anecdotal evidence suggests that judges, lawyers, police officers and other relevant officials know little about legal protection for transgender people and even within the transgender community there appears to be a lack of rights awareness.

In the **United Kingdom** the public sector Gender Equality Duty requires all public authorities (including their contactors) to eliminate unlawful discrimination and harassment on the grounds of sex and to promote equality of opportunity between women and men, including transsexuals of both genders. The Gender Equality Duty has improved awareness of transgender people's needs in the workplace and led to an increasing number of employers training staff on transgender issues.<sup>434</sup>

## Education

In the **United Kingdom** the 'Engendered Penalties' study,<sup>435</sup> found that '64 per cent of females with a male identity reported experiencing some kind of harassment or bullying at school and 44 per cent of natal males with a female identity experienced harassment or bullying at school'. This is significantly more than gay males, lesbians, or heterosexuals of either gender reported in similar studies. It is not only peers that are the instigators of harassment in education facilities. It appears that teachers bully non-gender conforming children as well, as shown by 28.7 per cent of natal females and 21 per cent of the natal males reporting having experienced this form of abuse.

The project "*Students for Transgender Inclusion*" run by the Association of Nordic LGBTQ Student Organisations – ANSO (December 2007-January 2009) aims to provide LGBTQ student organisations with knowledge on transgender issues by creating, collecting and distributing educational materials and lectures. The Students for Transgender Inclusion conference in Århus, **Denmark**, 15-21 May 2008, was attended by LGBTQ student activists from all Nordic and Baltic Sea regions. One of the outcomes of the conference is the webpage [www.transweb.wordpress.com](http://www.transweb.wordpress.com).<sup>436</sup>

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<sup>433</sup> Whittle, S, Turner, L, Combs, R, Rhodes, S (2008) 'Transgender EuroStudy: Legal Survey and Focus on the Transgender Experience of Health Care', Brussels: ILGA-Europe

<sup>434</sup> Equality and Human Rights Commission (2008) Overview of the gender equality duty, Guidance for public bodies working in England, Wales and Scotland

<sup>435</sup> Whittle, S, Turner, L, Al-Alami M (2007) 'Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination', Wetherby: The Equalities Review, pp. 63-65

<sup>436</sup> See <http://www.anso.dk/> (17.10.2008)

## Health

Healthcare is of the utmost importance for many transgender people, while at the same time representing one of the biggest problems in their lives.

### *Transgender-specific healthcare*

Transgender-specific healthcare (i.e. healthcare directly related to the gender identity of a person) is a medical necessity and should be covered by health care plans in the same way as other medically necessary procedures. This principle has been the basis of several decisions by the European Court of Human Rights, as in the cases of *van Kück v Germany*<sup>437</sup> and *L v. Lithuania*.<sup>438</sup>

The European-wide Transgender EuroStudy, however, shows that more than 80 per cent of the respondents were refused state-funding for gender transforming hormone treatments (often a life-long necessity), while 86 per cent were refused state-funding for surgery. More than half of the transgender respondents reported funding their own treatment.<sup>439</sup>

Another hurdle involves finding an informed and sensitive healthcare professional. Approximately a third of respondents said they were refused treatment because a healthcare professional did not approve of gender reassignment. A quarter of the respondents were met with refusal when they first approached a doctor or psychiatrist about transition.<sup>440</sup> In the **United Kingdom** 'Engendered Penalties' study<sup>441</sup>, 6.3 per cent of the transgender respondents' General Practitioners refused their requests for help in finding treatment for gender identity issues and a further 13.4 per cent did not appear to want to help. While 80 per cent did want to help, only 20 per cent actually could help because they had the relevant knowledge. Sixty percent wanted to help but lacked information.

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<sup>437</sup> European Court of Human Rights: *van Kück v. Germany*, Application no. 35968/97, judgment of 12 June 2003. See also: International Commission of Jurists (2007) 'Sexual Orientation and Gender Identity in Human Rights Law: Jurisprudential, Legislative and Doctrinal References from the Council of Europe and the European Union'; Geneva: International Commission of Jurists, p. 36

<sup>438</sup> European Court of Human Rights: *L. v. Lithuania*, Application no. 27527/03, judgment of 11 September 2007. See also: International Commission of Jurists (2007) 'Sexual Orientation and Gender Identity in Human Rights Law: Jurisprudential, Legislative and Doctrinal References from the Council of Europe and the European Union'; Geneva: International Commission of Jurists, p. 10

<sup>439</sup> Whittle, S, Turner, L, Combs, R, Rhodes, S (2008) 'Transgender EuroStudy: Legal Survey and Focus on the Transgender Experience of Health Care', Brussels: ILGA-Europe, p. 53ff

<sup>440</sup> Whittle, S, Turner, L, Combs, R, Rhodes, S (2008) 'Transgender EuroStudy: Legal Survey and Focus on the Transgender Experience of Health Care', Brussels: ILGA-Europe, p. 55f

<sup>441</sup> Whittle, S, Turner, L, Al-Alami M (2007) 'Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination', Wetherby: The Equalities Review, p. 44



It is rare that healthcare professionals have sufficient knowledge of transgender issues to be of effective help. For example, finding a healthcare provider in **Hungary** who is willing (and able) to help is so difficult that only the most persistent individuals are successful. Cases of corruption have been reported regarding medical assistance in relation to transgender issues.<sup>442</sup> In situations where there are few medical professionals willing, and less actually able, to assist in undertaking the medical procedures necessary for gender alteration, there is a high likelihood that the methods of operation will be dangerous for the patient.

In **Poland** a decree by the Minister of Health (2003) defined sex reassignment surgery as a 'non-standard health service' thereby excluding it from the National Health Fund.<sup>443</sup>

Photos posted on the internet, as well as anecdotal evidence suggests that surgery results are generally poor, with few well-trained surgeons who have the level of experience required to perform adequately this level of surgery. In **Hungary** researchers go so far as to say 'transphobia and lack of experience make safe treatment unlikely.'<sup>444</sup> Waiting times for transgender-specific healthcare services can be very long: in the **United Kingdom** it is two years on average.<sup>445</sup>

In the **United Kingdom**, the Scottish Needs Assessment Programme Survey among all health professionals found that treatment by health professionals, especially psychiatrists, often appears to be biased, and carried out in the absence of sufficient knowledge in the area.<sup>446</sup> In **Hungary**, research found that (hetero)sexist attitudes towards gender identity are common among mental health professionals.<sup>447</sup> These attitudes include the exclusion of those transsexuals from treatment who: i) do not over-conform to gender stereotypes; ii) do not identify themselves as openly either gay or lesbian; or, iii) profess to not having any kind of identifiable sex. In the **United Kingdom**, research

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<sup>442</sup> Solymár, Bence (2005) 'The Situation of Transgender People in the Hungarian Social and Health Care System' in Takács J. (ed.): 'A lélek műtétei' [Surgery of the Soul], Budapest: Új Mandátum Kiadó; Solymár, B, Takács, J (2007) 'Wrong Bodies and Real Selves: Transsexual People in the Hungarian Social and Health Care System', in: Kuhar, R, Takács, J (eds.) (2007) 'Beyond the Pink Curtain: Everyday Life of LGBT People in Eastern Europe', Ljubljana: Mirovni Institut

<sup>443</sup> Whittle, S, Turner, L, Combs, R, Rhodes, S (2008) 'Transgender EuroStudy: Legal Survey and Focus on the Transgender Experience of Health Care', Brussels: ILGA-Europe, p. 34

<sup>444</sup> Solymár, Bence (2005) 'The Situation of Transgender People in the Hungarian Social and Health Care System' in Takács J. (ed.): 'A lélek műtétei' [Surgery of the Soul], Budapest: Új Mandátum Kiadó

<sup>445</sup> Whittle, S, Turner, L, Al-Alami M (2007) 'Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination', Wetherby: The Equalities Review, p. 47

<sup>446</sup> Scottish Needs Assessment Program (2001) 'Transsexualism and Gender Dysphoria in Scotland', Scottish Executive

<sup>447</sup> Solymár, B, Takács, J (2007) 'Wrong Bodies and Real Selves: Transsexual People in the Hungarian Social and Health Care System', in: Kuhar, R, Takács, J (eds.) (2007) 'Beyond the Pink Curtain; Everyday Life of LGBT People in Eastern Europe', Ljubljana: Mirovni Institut

among transgender people on their experiences in Scotland shows that a 'lack of understanding and knowledge by general psychiatrists often results in transgender people being given inappropriate treatment which fails to assist them with their requirements and causes many months or even years of delay in getting access to assessment by an experienced gender specialist.'<sup>448</sup>

Lack of knowledge, not just by professionals, but also the general public, is especially problematic according to the **Dutch** centre for sex-related issues listing 'gender identity problems' among the top-10 questions asked by callers.<sup>449</sup>

In **Germany** *Transray.com* the informational system for transsexual people provides up-to-date information from within the transgender community. It is a comprehensive collection comprised of transgender people (4,000), newspapers (750), abbreviations (200), publishing companies, publications and articles (>8,000), books (800), anthologies (300), radio features (40), films (250) and conferences (30).<sup>450</sup>

#### *General health care*

Access to general, non transgender-related, healthcare by transgender people is often undermined by the prejudices of healthcare professionals. A quarter of the respondents in the EuroStudy<sup>451</sup> reported adverse treatment by healthcare professionals because they were transgender. A fifth reported that being a transgender person affected the way they access healthcare. As a result many transgender people report avoiding doctors' visits as much as possible for fear of inappropriate behaviour.

The **United Kingdom** 'Engendered Penalties' study,<sup>452</sup> found that 22 per cent of survey respondents felt that being transgender affected the way that they could access routine treatment that is not related to being transgender. Twenty nine percent of the respondents felt that being transgender adversely affected the way they were treated by healthcare professionals.

The results can be seen in the health statistics: Twelve per cent of the transgender respondents in the **Swedish** study reported bad health (as opposed to 6 per cent of the general population). Transgender people also reported

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<sup>448</sup> Scottish Transgender Alliance (2008) 'Transgender Experiences in Scotland - Research Summary', Edinburgh: Equality Network, p. 18

<sup>449</sup> Rutgers-Nisso Groep (2008) 'Trends in Seksualiteit in Nederland – Wat weten we anno 2008?', Utrecht: Rutgers-Nisso Groep

<sup>450</sup> Information provided by Transgender Europe at consultative roundtable on combating homophobia and transphobia in the EU, June 2008, Copenhagen.

<sup>451</sup> Whittle, S, Turner, L, Combs, R, Rhodes, S (2008) 'Transgender EuroStudy: Legal Survey and Focus on the Transgender Experience of Health Care', Brussels: ILGA-Europe, p.59ff

<sup>452</sup> Whittle, S, Turner, L, Al-Alami M (2007) 'Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination', Wetherby: The Equalities Review, p. 46

worse mental health than gay (7 per cent) or lesbian (20 per cent) respondents. Transgender people were also more likely to have sleeping problems.<sup>453</sup>

Fourteen percent of the respondents in the **Scottish** study on transgender experiences rated NHS general medical practitioners as ‘very poor’ or ‘extremely poor’. Forty-six per cent rated the service to be ‘very good’ or ‘extremely good’. Lack of knowledge on the part of doctors and often unsurpassable technical problems to change gender markers on records (resulting in a lack of privacy) were the biggest points of concern.<sup>454</sup>

Insurance companies refuse applications from transgender people on a regular basis. There is anecdotal evidence of a transgender person in **Belgium** who was exempted from private health insurance to cover hospitalisation costs and in the **Netherlands** of insurance companies that have refused to provide life insurance to transgender applicants, resulting in difficulties to finance a mortgage.

In the **United Kingdom**, the Department of Health has worked together with the transgender community to create a series of leaflets and guides available in hard copy and on the internet for all aspects of transgender health care. The various guides include one for GPs, a guide to hormone therapies, treatment of adolescents and a general guide to transgender people as workers and patients in the health service.<sup>455</sup>

### *Suicide*

Thirty percent of the transgender respondents of the EuroStudy<sup>456</sup> reported at least one suicide attempt as an adult. Half of the transgender participants in a different Swedish study reported having considered suicide at least once in their life and 21 per cent had acted on this consideration.<sup>457</sup> Similarly, in the **United Kingdom** study ‘Engendered Penalties’, 34.4 per cent of the respondents reported attempting suicide at least once as an adult.<sup>458</sup>

A roundtable discussion revealed that in **Belgium**, the University of Gent has created a focused medical centre for transgender people led by surgeons and

<sup>453</sup> Statens Folkhälsoinstitut (2005) ‘Homosexuellas, bisexuellas och transpersoners hälsosituation, Återrapportering av regeringsuppdrag att undersöka och analysera hälsosituationen bland hbt-personer’, Östersund: FHI

<sup>454</sup> Scottish Transgender Alliance (2008) ‘Transgender Experiences in Scotland - Research Summary’, Edinburgh: Equality Network, p. 15

<sup>455</sup> Information provided by Transgender Europe at consultative roundtable on combating homophobia and transphobia in the EU, June 2008, Copenhagen.

<sup>456</sup> Whittle, S, Turner, L, Combs, R, Rhodes, S (2008) ‘Transgender EuroStudy: Legal Survey and Focus on the Transgender Experience of Health Care’, Brussels: ILGA-Europe, p. 49

<sup>457</sup> Statens Folkhälsoinstitut (2005) ‘Homosexuellas, bisexuellas och transpersoners hälsosituation, Återrapportering av regeringsuppdrag att undersöka och analysera hälsosituationen bland hbt-personer’, Östersund: FHI, p. 21f

<sup>458</sup> Whittle, S, Turner, L, Al-Alami M (2007) ‘Engendered Penalties: Transgender and Transsexual People’s Experiences of Inequality and Discrimination’, Wetherby: The Equalities Review, p. 78

therapists, but not psychiatrists. The team of doctors works on the premise that transsexualism is simply a reality for some people. They provide psychiatric services to transgender people who present mental health problems due to stigma, anxiety and other related concerns.<sup>459</sup>

## Sports

As a result of new rules for transgender athletes at the Olympics, which are followed by many other sports governing bodies, transsexual athletes are basically banned from competition sports for several years during the course of a transition process.<sup>460</sup>

This ruling will likely compound overall findings that in society transgender people are less likely than non transgender people to engage in sporting activities. In the Swedish study, only 29 per cent of the transgender respondents engaged in sports on a regular basis, much less than the gay (45 per cent) or bisexual (43 per cent) respondents of the survey, and even fewer than the rest of society.<sup>461</sup> In the Scottish inquiry into the experiences of transgender people, 46 per cent of the respondents stated that they had never used any sports or leisure services in Scotland.<sup>462</sup>

## Media

Media portrayals of transgender people often ridicule them showing a lack of knowledge regarding transgender people's lives.<sup>463</sup> In films, transgender people are either martyrs or disempowered victims of violence. These negative representations suggest a highly exotic and unrealistic view of the transgender community while also over-emphasising some aspects of transgender peoples' lives at the expense of focussing on what is also a vibrant and diverse community.<sup>464</sup>

## Asylum issues

Some transgender people have been successful in gaining asylum in several EU member countries, though there is no evidence of a common policy. It is unknown whether people in asylum procedures are able to have their healthcare

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<sup>459</sup> Information provided by Transgender Europe at consultative roundtable on combating homophobia and transphobia in the EU, June 2008, Copenhagen

<sup>460</sup> Cavanagh, S., Sykes, H (2006) 'Transsexual Bodies at the Olympics: The International Olympic Committee's Policy on Transsexual Athletes at the 2004 Athens Summer Games' in Vol. 12(3) *Body & Society*, 75-102, p. 78

<sup>461</sup> Statens Folkhälsoinstitut (2005) 'Homosexuella, bisexuella och transpersoners hälsosituation, Återrapportering av regeringsuppdrag att undersöka och analysera hälsosituationen bland hbt-personer', Östersund: FHI, p. 28

<sup>462</sup> Scottish Transgender Alliance (2008) 'Transgender Experiences in Scotland - Research Summary', Edinburgh: Equality Network, p. 19

<sup>463</sup> Based on examples collected by Justus Eisfeld

<sup>464</sup> E-mail conversation with the director of the Dutch Transgender Filmfestival on June 14, 2008

needs such as access to hormones and/or surgery met by their host countries. It is also unknown if placement with potentially transphobic compatriots poses a threat to transgender asylum seekers or whether transgender asylum seekers have access to the local transgender community and its support structures at all.<sup>465</sup>

### **Multiple Discrimination**

One group of transgender people who risk multiple discrimination are immigrant transgender women who work as sex workers, many of whom are believed to be undocumented immigrants. This group of people is isolated, with limited resources and there is little information on their living conditions and experiences.

Similarly, very little is known about the situation of transgender people from ethnic and/or religious minority backgrounds. What is known is that many of the cultural backgrounds can be described as heterosexist and rigid in their perception of gender increasing the risk of transphobia.<sup>466</sup>

The prejudice that transgender people with disabilities face is severe. One example is the reaction of the British Paralympic Association to the Gender Recognition Act. The Association asked for an exemption, because of their 'grave concerns over the protection of vulnerable adults and children, and the implications for volunteer supervisors in the world of disability sport, in relation to the issues presented by a pre-operative individual'.<sup>467</sup>

Elderly transgender people have been marginalised in their teens, during their adulthood and in the final stage of their lives. As the first generation of transgender people who were able to undergo hormonal and/or surgical treatment age, valid research questions arise relating to the long-term effects of cross-sex hormone use and treatment of these individuals in retirement homes and nursing facilities. The dignity of elderly transgender people, many of whom have remained private about their identities, is threatened as they become increasingly dependent upon other people's care and, for practical reasons apart from anything else, may have to eventually disclose their gender status.<sup>468</sup>

Transgender children and adolescents also face unique problems. More likely than not, gender non-conforming children will suffer the severe consequences

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<sup>465</sup> Justus Eisfeld, (2008), 'The situation concerning transphobia and discrimination on grounds of gender identity and/or gender expression in the EU Member States', DIHR, pp. 27-28.

<sup>466</sup> Tee, N, Hegarty, P (2006) 'Predicting Opposition to the Civil Rights of Trans Persons in the United Kingdom', in: 16 Journal of Community & Applied Social Psychology,,70-80, Wiley InterScience

<sup>467</sup> Cavanagh, S., Sykes, H (2006) 'Transsexual Bodies at the Olympics: The International Olympic Committee's Policy on Transsexual Athletes at the 2004 Athens Summer Games' in Vol. 12(3) Body & Society, 75-102, p. 90

<sup>468</sup> Witten, T, Whittle, S (2004) 'TransPanthers: The Greying of Transgender and the Law', Vol. 9 Nr. 2 Deakin Law Review, , 2004

of confronting sanctions for their behaviour, disbelief, repression and misdiagnoses.<sup>469</sup>

Transgender people who also identify themselves as lesbian, gay or bisexual meet the same kind of prejudice that other LGB people face in society which compounds the already high level of abuse they experience. In addition, their sexual orientation is often not fully appreciated or is confused with their gender identity. Acceptance within LGB groups can be very different depending on the group. While cross-dressing has long been a part of gay culture in many countries,<sup>470</sup> acceptance of transsexual men and women is often very low.

In **Germany**, a website for young transgender people, their family members and friends called 'Young T – Where you're always welcome!' offers information, exchange with people in similar situations, and helps young transgender people find friends.<sup>471</sup>

In the **United Kingdom** *Age Concern* published a booklet 'Planning for later life – transgender people'.<sup>472</sup>

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<sup>469</sup> Justus Eisfeld, (2008), 'The situation concerning transphobia and discrimination on grounds of gender identity and/or gender expression in the EU Member States', DIHR, p. 32

<sup>470</sup> Brooks, R (2000) 'Cross-Dressing in Bulgaria: Gay-Identity, Post-Communist Fear, and Magical Love', available at <http://bad.eserver.org/issues/2000/50/brooks.html> (22.05.2008)

<sup>471</sup> Information provided by Transgender Europe at consultative roundtable on combating homophobia and transphobia in the EU, June 2008, Copenhagen.

<sup>472</sup> See [http://www.ageconcern.org.uk/AgeConcern/equality\\_human\\_rights\\_policy.asp](http://www.ageconcern.org.uk/AgeConcern/equality_human_rights_policy.asp) (13.06.2008)

# Conclusions

LGBT persons experience homophobia, transphobia and discrimination in different forms, including direct as well as indirect discrimination, and homophobic and transphobic bullying and harassment. This often takes the form of demeaning or derogatory statements, name calling, insults or the use of abusive language. Moreover, the occurrence of verbal and physical attacks against LGBT persons has been detected in all the Member States.

This affects the lives of LGBT persons in different ways. From the earliest year groups, derogatory words for gays and lesbians are used at schools. At the workplace, harassment can be an everyday occurrence. Partners in a relationship often lack the ability to secure themselves to one another as full legal partners. At retirement homes awareness of LGBT persons' needs can be nonexistent.

Negative attitudes toward LGBT people were identified in all Member States of the EU. Some EU citizens report that they would be uncomfortable having a homosexual as a friend, colleague or neighbour. Some would also be uncomfortable with a relative forming a relationship with a transgender person. Some consider LGBT persons ineligible to work as teachers. Some do not think LGBT persons should be visible in public spaces. And some believe that homosexuality is an illness that should be treated medically.

## **Lack of Visibility and the Extent of Discrimination**

This report shows that the 'invisibility' of LGBT persons in various sectors of EU society is a prominent issue. The fact that many LGBT persons are not open about their status may mean that incidents of experienced or perceived discrimination are not reflected in statistics or do not reach the authorities, as they are not reported or filed as part of complaints for legal review.

Furthermore this study shows that many LGBT persons adopt a *strategy* of invisibility due to, among other things, the fear of homophobia, transphobia and discrimination. Again, this strategy, as well as a lack of awareness of rights, prevents LGBT persons from reporting incidents of experienced discrimination.

This picture correlates with the finding of the majority of National Equality Bodies that the number of reported sexual orientation discrimination cases is low compared to other grounds of discrimination. These factors contribute to making discrimination against LGBT persons less visible and the extent difficult to determine.

Homophobia, transphobia and discrimination have been identified in this study as phenomena which exclude LGBT citizens from full participation in social and political life.

The report shows that discrimination and homophobia disadvantage LGBT persons in all areas of social life, for example:

- Hate crime against LGBT persons is a prevalent phenomenon that affects LGBT persons in various ways in all the Member States. A low reporting rate ensures a lack of correlation between official figures and actual hate incidents.
- In recent years bans or administrative impediments have blocked the organisation of peaceful, public LGBT demonstrations in some Member States, and there have been several incidents of violent attacks on LGBT parades and demonstrations.
- Examples of homophobic speech are found in the media, at times articulated by prominent political or religious figures.
- LGBT families face unique challenges because of societal stigma and the lack of institutional recognition of their relationships.
- LGBT persons are subject to homophobia and discrimination in the labour market in a number of ways: direct discrimination, harassment, bullying, ridicule and being socially 'frozen out'.
- Incidents of bullying and harassment of LGBT persons are found in educational settings across the EU, not least in the form of verbal homophobia, with words for gay men, lesbians or transgender persons used as perjorative terms.
- Incidents of LGBT discrimination are found in health care. Negative experiences include sexual orientation being labelled as a disturbance or a sickness and the assumption that clients or patients are heterosexual by default.
- LGBT persons face particular difficulties in the process of seeking asylum.

### **Lack of data and research**

#### *Official statistical data*

Official data on discrimination is collected only in a few Member States and only within specific areas:



- Criminal law (homophobic hate speech and hate crime): Data on the number of police reports or court decisions are collected in **Lithuania, United Kingdom** and **Sweden**. In the remaining 24 Member States no data is collected.
- Employment Directive: Data on the number of complaints of discrimination on the ground of sexual orientation is collected in **Austria, Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, the Netherlands, Romania** and **Sweden**. In the remaining 17 Member States no statistics are available.
- Granting of asylum: Data on the number of LGBT persons benefiting from asylum/subsidiary protection due to persecution on the ground of sexual orientation is provided in **Austria, Belgium, Cyprus, Latvia and Estonia**. In the remaining 22 Member States no statistics are available.

It is clear that reporting systems for national collection of official data are either missing or are insufficient in most Member States.

#### *A significant data gap*

There is a significant lack of both academic research and unofficial NGO data regarding homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity in many Member States and at the EU level. Existing data from research carried out in various national contexts rely on different methodologies making it difficult to develop a comparative analysis on the extent of discrimination on grounds of sexual orientation and gender identity across the EU in all the areas relating to LGBT persons.

The data gap analysis shows that there is a profound lack of quantitative and qualitative research and statistics on all the thematic areas covered in this report. The area which appears to be most commonly researched concerns *attitudes towards LGBT persons*. The areas of *hate crime and hate speech, access to health care, labour market and education*, have been afforded some research attention in some Member States. However, *transgender issues, multiple discrimination, religion, freedom of assembly, asylum and sports* appear to be profoundly under-researched in all EU Member States.

## Annex 1 Report Authors

**Report on Transgender Persons:** Justus Eisfeld, independent advisor<sup>473</sup>

### Country reports

Country	Position and Name
<b>Austria</b>	Gudrun Hauer (PhD.); Kurt Krickler, Homosexuelle Initiative (HOSI) Wien
<b>Belgium</b>	Alexis Dewaele; David Paternotte, Policy Research Centre on Equal Opportunities
<b>Bulgaria</b>	Milena Dimitrova, Research Analyst, Alpha Research Ltd. – Agency for Social and Market Research, Sofia, Bulgaria
<b>Cyprus</b>	Nicos Trimikliniotis, Assistant Professor & Director, Centre for the study of Migration, Inter-ethnic & Labour Relations; Stavros Stavrou Karayanni, University of Nicosia (Intercollege).
<b>Czech Rep</b>	Olga Pechová (PhD.), Department of Psychology, Palacký University and Martina Stepánková, legal practitioner
<b>Denmark</b>	Mads Ted Drud-Jensen, Sociologist, COWI
<b>Estonia</b>	Agnes Alvela (M.A., social work), Extraordinary Research Fellow (Centre of Behavioural and Health Sciences), University of Tartu
<b>Finland</b>	Kati Mustola, Sociologist, University of Helsinki.
<b>France</b>	Natacha Chetcuti (PhD.), Sociologist, Laboratoire d'Anthropologie Sociale, EHESS, Paris
<b>Germany</b>	Dominic Frohn, Institute of Psychology, University of Cologne; Patrick Stärke, Bonn University.
<b>Greece</b>	Miltos Pavlou, Senior Investigator – The Greek Ombudsman's Office
<b>Hungary</b>	Judit Takács (PhD.), Senior Research Fellow, Institute of Sociology, Hungarian Academy of Sciences, Budapest

<sup>473</sup> In the first edition reference to Mr. Justus Eisfeld was inadvertently omitted.

<b>Ireland</b>	Judy Walsh, Lecturer in Law, Head of Equality Studies; Catherine Conlon, Ad Astra Research Scholar, University College Dublin
<b>Italy</b>	Chiara Bertone, Lecturer and Researcher, University of Piemonte Orientale
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<b>Lithuania</b>	Dr. Arturas Tereskinas, Associate Professor of Sociology, Vytautas Magnus University
<b>Luxembourg</b>	Dr. Christel Balthes-Loehr, Ass. Prof.,; Roby Antony, Pia Back, Marion Huss, Adrienne Ouafu and Sandy Vitali (research team), University of Luxembourg
<b>Malta</b>	Marceline Naudi (PhD), University of Malta
<b>Netherlands</b>	Publicly available sociological data, DIHR
<b>Poland</b>	Professor Ireneusz Krzeminski, University of Warsaw
<b>Portugal</b>	Teresa Líbano Monteiro, Researcher and Assistant Professor; Verónica Policarpo, Doctoral candidate; Francisco Vieira da Silva, Researcher, Institute of Social Sciences at the University of Lisbon
<b>Romania</b>	Florin Buhuceanu, President of Accept (LGBT NGO).
<b>Slovakia</b>	Paula Jojart, Researcher; Roman Kollárik, University of Comenius.
<b>Slovenia</b>	Roman Kuhar (PhD.), Assist. Prof., Peace Institute, Ljubljana
<b>Spain</b>	Kerman Calvo, Senior Research Officer, University of Essex
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<b>United Kingdom</b>	Dr. Surya Monro, Senior Research Fellow, Leeds Metropolitan University.

## Annex 2 Stakeholder E - Questionnaire

### Introduction

#### Comparative study of discrimination of LGBT people in the EU

This questionnaire is part of a comparative study of discrimination against lesbian, gay, bi-sexual and transgender (LGBT) people in the EU. The questionnaire consists of a number of questions depending on the focus area of your organisation.

There are three parts to the questionnaire.

1. To describe your organisation
2. To gain an assessment of the current situation on discrimination and unequal treatment of LGBT people in your country.
3. To gain an overview of the work carried out by NGOs, National Equality Bodies and government organisations relating to discrimination and unequal treatment of LGBT people.

On behalf of DIHR and COWI, we thank you for taking the time to fill in the questionnaire

To continue to the questionnaire, please the "Start interview" button.

Questions for characterisation of your organisation.

#### 1. Please state, in which country your organisation is based in?

- Austria
- Finland
- Belgium
- Bulgaria
- Cyprus
- Czech Republic
- Denmark
- France
- Luxembourg
- Sweden
- Spain
- Slovenia
- Slovakia
- Romania

- Portugal
- Poland
- Estonia
- Malta
- United Kingdom
- Lithuania
- Latvia
- Italy
- Ireland
- Hungary
- Greece
- Germany
- Netherlands

**2. Please state, the type of organisation**

- Public Authority (PA) (except when PA is a National Equality body)
- National Equality Body (NEB)
- Non Governmental Organisation (NGO)

Questions for characterisation of your organisation.

*[only NGO should answer this question]*

**3. Please state, the target group(s) of the organization/]**

- Gay
- Lesbian
- Bi-sexual
- Transgender

*[only non-NGO answer this question]*

**4. Please state, the areas of interest for the organisation**

- Criminal law (e.g. hate crimes)
- Family and social issues
- The Labour market
- Asylum and Family Reunification
- Education
- Health service
- Religion
- Sports
- Media
- Transgender issues
- Others (open text field)

**General Opinion**

Your assessment of the general public opinion on LGBT people.

Please state your assessment of the general acceptance of LGBT people in your country.

**5. Lesbian**

- 1. No acceptance
- 2. A minority accepts
- 3. Half of people accepts
- 4. A majority accepts
- 5. Total acceptance
- Don't know
- Does not apply/Not relevant

#### **6. Gay**

- 1. No acceptance
- 2. A minority accepts
- 3. Half of people accepts
- 4. A majority accepts
- 5. Total acceptance
- Don't know
- Does not apply/Not relevant

#### **7. Bisexual**

- 1. No acceptance
- 2. A minority accepts
- 3. Half of people accepts
- 4. A majority accepts
- 5. Total acceptance
- Don't know
- Does not apply/Not relevant

#### **8. Transgender**

- 1. No acceptance
- 2. A minority accepts
- 3. Half of people accepts
- 4. A majority accepts
- 5. Total acceptance
- Don't know
- Does not apply/Not relevant

#### **Criminal Law, Freedom of assembly/Expression**

Your assessment of the opportunity for LGBT people to invoke their political rights and participate in the public sphere.

**9. Please state your assessment of the opportunities of LGBT people to express/voice the interests in issues related to freedom of assembly and expression, compared to non-LGBT people. (eg. at planning and participation of parades, expressing opinions in the media, establishing associations).**

- 1. No opportunities
- 2. Few opportunities
- 3. Some opportunities

- 4. Many opportunities
- 5. Equal opportunities
- Don't know
- Does not apply/Not relevant

**10. Please state, if there, in your country, are any official rules, guidelines etc. that limit particularly LGBT people's from exercising their right to freedom of assembly or expression (In some European countries certain political groups are not allowed to have protest marches or run for political positions due to special legislation).**

- Yes
- No
- Don't know
- Does not apply/Not relevant

**11. If yes, could you state the name of the law or practice?**

- Enter text

#### **Criminal Law, Freedom of assembly**

Your assessment of the opportunity for LGBT people to invoke their political rights and participate in the public sphere of LGBT people.

Please state your assessment of the recognition of LGBT people as equal participants on the political arena in your country (e.g. electability as a politician for an openly declared gay, lesbian, bi-sexual or transgender person)

#### **12. Lesbian**

- 1 Not recognised
- 2. Somewhat recognised
- 3. Recognised by most
- 4. Almost full recognition
- 5. Total recognition
- Don't know
- Does not apply/Not relevant

#### **13. Gay**

- 1. Not recognised
- 2. Somewhat recognised
- 3. Recognised by most
- 4. Almost full recognition
- 5. Total recognition
- Don't know
- Does not apply/Not relevant

#### **14. Bisexual**

- 1. Not recognised
- 2. Somewhat recognised

- 3. Recognised by most
- 4. Almost full recognition
- 5. Total recognition
- Don't know
- Does not apply/Not relevant

**15. Transgender**

- 1. Not recognised
- 2. Somewhat recognised
- 3. Recognised by most
- 4. Almost full recognition
- 5. Total recognition
- Don't know
- Does not apply/Not relevant

**Criminal Law, Legal protection**

Your assessment of the legal status of LGBT people in your country

Please state your assessment of the degree of legal protection against discrimination/unequal treatment for LGBT people.

**16. Social laws (e.g. equal access to social benefits).**

- 1. No protection
- 2. Little protection
- 3. Some protection
- 4. Good protection
- 5. High protection
- Don't know
- Does not apply/Not relevant

**17. Labour market regulation (e.g. lack of employment benefits for same-sex partners)**

- 1. No protection
- 2. Little protection
- 3. Some protection
- 4. Good protection
- 5. High protection
- Don't know
- Does not apply/Not relevant

**18. Property regulation laws (e.g. some are not allowed to own, buy certain things)**

- 1. No protection
- 2. Little protection
- 3. Some protection
- 4. Good protection
- 5. High protection



- Don't know
- Does not apply/Not relevant

**19. Religious regulation (e.g. restrictions to access to certain church rituals, sanctioned by the law)**

- 1. No protection
- 2. Little protection
- 3. Some protection
- 4. Good protection
- 5. High protection
- Don't know
- Does not apply/Not relevant

**20. Family laws (e.g. certain laws apply only to heterosexual couples, thus treating same-sex partnerships differently)**

- 1. No protection
- 2. Little protection
- 3. Some protection
- 4. Good protection
- 5. High protection
- Don't know
- Does not apply/Not relevant

**21. Tax laws (e.g. certain tax-benefits are regulated with respect to heterosexual partnerships and not to others)**

- 1. No protection
- 2. Little protection
- 3. Some protection
- 4. Good protection
- 5. High protection
- Don't know
- Does not apply/Not relevant

**22. Political rights (e.g. the freedom of assembly and the right to equal access to public funding of political activities).**

- 1. No protection
- 2. Little protection
- 3. Some protection
- 4. Good protection
- 5. High protection
- Don't know
- Does not apply/Not relevant

**23. Immigration laws (e.g. the recognition of persecution on the grounds of sexual orientation as a basis for asylum)**

- 1. No protection
- 2. Little protection

- 3. Some protection
- 4. Good protection
- 5. High protection
- Don't know
- Does not apply/Not relevant

**Criminal Law, Hate-crimes**

Your assessment of the status of LGBT people relating to harassments and assaults on the grounds of sexual orientation in your country (the so-called hate-crimes)

**24. Please state your assessment of the level of assaults and incidents of harassment due to sexual orientation.**

- 1. None/low level
- 2. Somewhat low level
- 3. Middle level
- 4. Somewhat high level
- 5. High level
- Don't know
- Does not apply/Not relevant

Your assessment of the status of LGBT people relating to harassments and assaults on the grounds of sexual orientation (the so-called hate-crimes)

**25. Please state your assessment of how relevant public authorities consider hate-crimes towards LGBT people compared to assaults towards other people.**

- 1. Do not take the problem seriously
- 2. Take it a little seriously
- 3. Take it somewhat seriously
- 4. Take it seriously
- 5. Take it very seriously
- Don't know
- Does not apply/Not relevant

**Family and social issues**

Your assessment of the situation of LGBT people on family and social related issues.

**26. Please state, if it is possible to have a publicly sanctioned and registered same-sex partnership in your country.**

- Yes
- No
- Don't know/
- Does not apply/Not relevant

**27. Please state your assessment of the level of administrative and procedural barriers/difficulties when living in a non-publicly sanctioned same-sex partnership in your country. (e.g. not registered partnership).**

- 1. Many barriers/difficulties
- 2. A lot of barriers/difficulties
- 3. Some barriers/difficulties
- 4. A few barriers/difficulties
- 5. No barriers/difficulties
- Don't know
- Does not apply/Not relevant

**28. Same-sex partnership in my country can be sanctioned by or is recognised by: (E.g. does a legislation allow it and consider it valid in their own terms) (multiple answers are allowed).**

- Under general legislation
- Under special legislation
- Others (e.g. municipalities), if yes please state below
- Don't know
- Does not apply/Not relevant

**29. Please state your assessment if public authorities offer the same access to public services to same-sex couples as to heterosexual couples (e.g. in relation the recognition of same-sex partners in schools or hospitals).**

- 1. None/low level of access
- 2. Somewhat low level of access
- 3. Moderate level of access
- 4. Somewhat high level of access
- 5. High access
- Don't know
- Does not apply/Not relevant

*[Answer only if NGO:]*

**The Labour market**

Your assessment of LGBT people in relation to labour market opportunities.

**30. Please state your assessment of the equality of opportunity in getting jobs for lesbian, gay and bi-sexual people, compared to heterosexuals. (e.g. will a disclosure of the applicant's sexual orientation be a disadvantage in getting a job compared to a heterosexual applicant).**

- 1. Unequal opportunities
- 2. Somewhat unequal opportunities
- 3. Moderately equal opportunities
- 4. Fairly equal opportunities
- 5. Equal opportunities
- Don't know
- Does not apply/Not relevant

**31. Please state your assessment of the equality of opportunity in getting jobs for transgender people, compared to heterosexuals. (e.g. will an openly transgendered person face disadvantages in getting a job compared to others).**

- 1. Unequal opportunities
- 2. Somewhat unequal opportunities
- 3. Moderately equal opportunities
- 4. Fairly equal opportunities
- 5. Equal opportunities
- Don't know
- Does not apply/Not relevant

Please state your assessment of equality of opportunity for job career advancements for LGBT people, compared to non-LGBT people.

**32. Lesbian**

- 1. Unequal opportunities
- 2. Somewhat unequal opportunities
- 3. Moderately equal opportunities
- 4. Fairly equal opportunities
- 5. Equal opportunities
- Don't know
- Does not apply/Not relevant

**33. Gay**

- 1. Unequal opportunities
- 2. Somewhat unequal opportunities
- 3. Moderately equal opportunities
- 4. Fairly equal opportunities
- 5. Equal opportunities
- Don't know
- Does not apply/Not relevant

**34. Bisexual**

- 1. Unequal opportunities
- 2. Somewhat unequal opportunities
- 3. Moderately equal opportunities
- 4. Fairly equal opportunities
- 5. Equal opportunities
- Don't know
- Does not apply/Not relevant

**35. Transgender**

- 1. Unequal opportunities
- 2. Somewhat unequal opportunities
- 3. Moderately equal opportunities
- 4. Fairly equal opportunities

- 5. Equal opportunities
- Don't know
- Does not apply/Not relevant

Please state your assessment of level of equal payment (wages, including benefits and partner benefits) for equal work for LGBT people, compared to non-LGBT people.

**36. Lesbian**

- 1. Unequal payment
- 2. Somewhat unequal payment
- 3. Moderately equal payment
- 4. Fairly equal payment
- 5. Equal payment
- Don't know
- Does not apply/Not relevant

**37. Gay**

- 1. Unequal payment
- 2. Somewhat unequal payment
- 3. Moderately equal payment
- 4. Fairly equal payment
- 5. Equal payment
- Don't know
- Does not apply/Not relevant

**38. Bisexual**

- 1. Unequal payment
- 2. Somewhat unequal payment
- 3. Moderately equal payment
- 4. Fairly equal payment
- 5. Equal payment
- Don't know
- Does not apply/Not relevant

**39. Transgender**

- 1. Unequal payment
- 2. Somewhat unequal payment
- 3. Moderately equal payment
- 4. Fairly equal payment
- 5. Equal payment
- Don't know
- Does not apply/Not relevant

### **Asylum and family reunification**

Your assessment of LGBT people in relation to asylum and family reunification.

#### **40. Please state your assessment of the general awareness from public authorities of LGBT people seeking asylum and same-sex couples seeking family reunification.**

- 1. None/low level of awareness
- 2. Somewhat low level of awareness
- 3. Moderate level of awareness
- 4. Somewhat high level of awareness
- 5. Widespread awareness
- Don't know
- Does not apply/Not relevant

#### **41. Please state, your assessment of the relevance that public authorities attach to LGBT asylum seekers seeking refugee status?**

- 1. No relevance attached
- 2. Attach a little relevance
- 3. Attach a fair amount of relevance
- 4. Attach a somewhat high amount of relevance
- 5. Attach a high amount of relevance
- Don't know
- Does not apply/Not relevant

*[Only NGO answer this]*

#### **42. Please state your assessment of the importance of special attention in the LGBT community for LGBT asylum seekers and same-sex couples seeking family reunification.**

- 1. Not important
- 2. Somewhat important
- 3. Fairly important
- 4. Important
- 5. Very important
- Don't know
- Does not apply/Not relevant

### **Education**

Your assessment of LGBT people with regard to educational issues.

Please state your assessment of the level of acceptance towards LGBT people from school personnel in school on the following educational levels:

#### **43. Primary education (Basic school 0-9 years)**

- 1. None/low level of acceptance
- 2. Low level of acceptance

- 3. Moderate level of accepted
- 4. Somewhat high level of acceptance
- 5. High level of acceptance
- Don't know
- Does not apply/Not relevant

**44. Upper secondary education (e.g. Gymnasium)**

- 1. None/low level of acceptance
- 2. Low level of acceptance
- 3. Moderate level of accepted
- 4. Somewhat high level of acceptance
- 5. High level of acceptance
- Don't know
- Does not apply/Not relevant

**45. Post secondary non-tertiary education (shorter educations 0,5-2 years)**

- 1. None/low level of acceptance
- 2. Low level of acceptance
- 3. Moderate level of accepted
- 4. Somewhat high level of acceptance
- 5. High level of acceptance
- Don't know
- Does not apply/Not relevant

**46. Tertiary educations level B (Vocational/professional educations 3-4 years)**

- 1. None/low level of acceptance
- 2. Low level of acceptance
- 3. Moderate level of accepted
- 4. Somewhat high level of acceptance
- 5. High level of acceptance
- Don't know
- Does not apply/Not relevant

**47. Tertiary educations level A (University educations or research 3-8 years)**

- 1. None/low level of acceptance
- 2. Low level of acceptance
- 3. Moderate level of accepted
- 4. Somewhat high level of acceptance
- 5. High level of acceptance
- Don't know
- Does not apply/Not relevant

Please state your assessment of the level of acceptance towards LGBT people **from other students** in school on the following educational levels:

**48. Primary education (Basic school 0-9 years)**

- 1. None/low level of acceptance
- 2. Low level of acceptance
- 3. Moderate level of accepted
- 4. Somewhat high level of acceptance
- 5. High level of acceptance
- Don't know
- Does not apply/Not relevant

**49. Upper secondary education (e.g. Gymnasium)**

- 1. None/low level of acceptance
- 2. Low level of acceptance
- 3. Moderate level of accepted
- 4. Somewhat high level of acceptance
- 5. High level of acceptance
- Don't know
- Does not apply/Not relevant

**50. Post secondary non-tertiary education (shorter educations 0,5-2 years)**

- 1. None/low level of acceptance
- 2. Low level of acceptance
- 3. Moderate level of accepted
- 4. Somewhat high level of acceptance
- 5. High level of acceptance
- Don't know
- Does not apply/Not relevant

**51. Tertiary educations level B (Vocational/professional educations 3-4 years)**

- 1. None/low level of acceptance
- 2. Low level of acceptance
- 3. Moderate level of accepted
- 4. Somewhat high level of acceptance
- 5. High level of acceptance
- Don't know
- Does not apply/Not relevant

**52. Tertiary educations level A (University educations or research 3-8 years)**

- 1. None/low level of acceptance
- 2. Low level of acceptance
- 3. Moderate level of accepted
- 4. Somewhat high level of acceptance
- 5. High level of acceptance
- Don't know
- Does not apply/Not relevant



Please state your assessment of the degree to which, the **school curricula** are considerate to LGBT related issues on the following educational levels.

**53. Primary education (Basic school 0-9 years)**

- 1. Not considerate
- 2. Low degree of consideration
- 3. Fair degree of consideration
- 4. Widely considerate
- 5. Highly considerate
- Don't know
- Does not apply/Not relevant

**54. Upper secondary education (e.g. Gymnasium)**

- 1. Not considerate
- 2. Low degree of consideration
- 3. Fair degree of consideration
- 4. Widely considerate
- 5. Highly considerate
- Don't know
- Does not apply/Not relevant

**55. Post secondary non-tertiary education (shorter educations 0,5-2 years)**

- 1. Not considerate
- 2. Low degree of consideration
- 3. Fair degree of consideration
- 4. Widely considerate
- 5. Highly considerate
- Don't know
- Does not apply/Not relevant

**56. Tertiary educations level B (Vocational/professional educations 3-4 years)**

- 1. Not considerate
- 2. Low degree of consideration
- 3. Fair degree of consideration
- 4. Widely considerate
- 5. Highly considerate
- Don't know
- Does not apply/Not relevant

**57. Tertiary educations level A (University educations or research 3-8 years)**

- 1. Not considerate
- 2. Low degree of consideration
- 3. Fair degree of consideration
- 4. Widely considerate
- 5. Highly considerate

- Don't know
- Does not apply/Not relevant

### **Health service**

Your assessment of LGBT people with regard to the health service sector.

**58. Please state your assessment of the general attitude from health service personal to specific needs relating to LGBT people (e.g. lesbians seeking assisted insemination or the recognition of same sex partners as relatives/family members).**

- 1. Negative attitude
- 2. Somewhat negative attitude
- 3. Moderate attitude
- 4. Somewhat positive attitude
- 5. Positive attitude
- Don't know
- Does not apply/Not relevant

**59. Please state your assessment of the general attitude from health service personal toward gay men infected with hiv/aids.**

- 1. Negative attitude
- 2. Somewhat negative attitude
- 3. Moderate attitude
- 4. Somewhat positive attitude
- 5. Positive attitude
- Don't know
- Does not apply/Not relevant

### **Religion**

Your assessment of LGBT peoples recognition within main religions.

**60. Same-sex partnership in my country can be sanctioned by or is recognised by: (E.g. does a religion allow it and consider it valid in their own terms) (multiple answers are allowed).**

- National Religion of my country
- Other Religions in my country
- Don't know/Not relevant

### **Sports**

Your assessment of LGBT people within the area of sports.

**61. Please state your assessment of the degree to which LGBT people can be open about their sexual orientation when practising sport on a private level.**

- 1. No possibilities
- 2. Low level of possibilities
- 3. Moderate level of possibilities

- 4. Somewhat high level of possibilities
- 5. High level of possibilities
- Don't know
- Does not apply/Not relevant

**62. Please state your assessment of the level of acceptance of openly LGBT people in relation to the practice of sports.**

- 1. None/low level of acceptance
- 2. Low level of acceptance
- 3. Moderate level of accepted
- 4. Somewhat high level of acceptance
- 5. High level of acceptance
- Don't know
- Does not apply/Not relevant

**Media**

Your assessment of the treatment of LGBT people by publicly owned media (television, newspapers, websites of public broadcasters internet etc).

**63. Please state your assessment of treatment of LGBT people in the media in general.**

- 1. Negative treatment
- 2. Somewhat negative treatment
- 3. Neutral treatment
- 4. Somewhat positive treatment
- 5. Positive treatment
- Don't know
- Does not apply/Not relevant

**64. Please state your assessment of the stereotyping of LGBT people in the media as opposed to presenting a nuanced description.**

- 1. Grossly stereotyping
- 2. Stereotyping to some extent
- 3. Equally stereotyping and nuancing
- 4. Somewhat nuanced descriptions
- 5. Nuanced descriptions
- Don't know
- Does not apply/Not relevant

**Transgender issues**

Your assessment of the situation of transgender people.

**65. Please state your assessment of the overall public awareness of transgender people.**

- 1. None/low level of awareness
- 2. Somewhat low level of awareness
- 3. Moderate level of awareness

- 4. Somewhat high level of awareness
- 5. Widespread awareness
- Don't know
- Does not apply/Not relevant

**66. Please state your assessment of the awareness of public authorities of transgender people.**

- 1. None/low level of awareness
- 2. Somewhat low level of awareness
- 3. Moderate level of awareness
- 4. Somewhat high level of awareness
- 5. Widespread awareness
- Don't know

Does not apply/Not relevant

**67. Please state the importance of public authorities paying special attention towards transgender people with respect to the risk of social exclusion.**

- 1. Not important
- 2. Somewhat important
- 3. Fairly important
- 4. Important
- 5. Very important
- Don't know
- Does not apply/Not relevant

**68. Please state your assessment of the level of discrimination towards transgender people within the LGBT community.**

- 1. High level
- 2. Somewhat high level
- 3. Middle level
- 4. Somewhat low level
- 5. None/low level
- Don't know
- Does not apply/Not relevant

**69. Please state your assessment of the extent to which you include transgender, as a distinct subgroup, in the work of your organisation.**

- 1. No extent
- 2. To a small extent
- 3. To some extent
- 4. To a fairly extent
- 5. To a high extent
- Don't know
- Does not apply/Not relevant

**About the work of your organisation on homophobia and discrimination**

Their purpose is for us to collect data on the work being done in Europe on homophobia and discrimination on grounds of sexual orientation.

**70. Has your organisation any written accounts, reviews or reports on the current state of affairs with respect to LGBT people?**

- Yes
- No
- Don't know
- Does not apply/Not relevant

**71. Please state some of the areas you have covered in the written accounts.**

- General Opinion
- The Labour market
- Ethnic minorities
- Family and social issues
- Freedom of assembly
- Criminal law
- Hate-crimes
- Education
- Health service
- Sports
- Media
- Transgender issues
- Others (Please enter other relevant area)

**72. If possible, please state some of the titles of the accounts, reviews or reports on the areas mentioned.**

- Enter text

**73. If you have any examples of good practice in/by your organisation, please state them below (e.g. education of public servants in minority issues or anti-discrimination initiatives including sexual orientation). If you do not have any comments please leave the space empty.**

- Enter text

**74. If you have any further comments on discrimination against LGBT people, which is relevant for specifically your country, please state them below. If you do not have any comments please leave the space empty.**

- Enter text

*[only answer if NGO\_or\_EB]*

**75. DIHR and COWI would like to visit you in March/April. If you have any subjects that you would like to bring up and discuss with us, please state them below.**

- Enter text

**76. If you have any further comments on the survey, please state them below.**

Enter text

Please press the "next" button to save answers and close questionnaire.

**Thank you for your contribution to the survey**